

Alamy Royalty-Free End User License Agreement (EULA)

This is a legal agreement between you or your company, firm or other organization ("you") and Alamy Inc ("Alamy"). Alamy has been appointed agent by its Contributors to grant this License on their behalf.

Please read this agreement carefully in its entirety before you download or use any image. By confirming the purchase of the Image(s) or downloading the Image(s) you have selected from this website you agree to be bound by the terms of this EULA (the "Agreement") and the Image usage restrictions contained herein. If you do not wish to accept the terms of this Agreement, please delete the unused Image(s) and notify Alamy by email to the following address: sales@alamy.com within ten days from the invoice date for a full refund.

1. Definitions

"Terms"

Means the terms and conditions set out in this Agreement and includes the terms contained in the Invoice. The terms contained in the Invoice replace those in this Agreement to the extent of any inconsistency.

"Contributor"

Means the owner(s) of the copyright in the Image(s) or their agent(s) who have submitted the Image(s) to Alamy.

"Alamy"

Means Alamy Inc.

"Invoice"

Means the computer-generated or pre-printed invoice provided by Alamy that may include, without limitation, details of the Images selected, any limitations on the License in addition to those specified herein, the key terms of the License and the corresponding price for the License . The terms contained in the Invoice shall be incorporated into this Agreement and all references to the Agreement shall include those terms.

"Image(s)"

Means the Image(s) you have selected which are identified on the Invoice or, in the case of a virtual CD, the CD which is identified on the Invoice.

"Intellectual Property"

Means all property, intellectual, industrial design and moral rights of every kind and nature, including all applications thereof, including but not limited to copyrights, trademarks, service marks, trade names, trade dress, symbols, logos and designs, trade secret rights and registrations, initial applications, renewal extensions, continuations, divisions or reissues thereof.

"License "

Means the non-exclusive (unless otherwise stated in the Invoice) non-sublicensable right Alamy grants to you to use the Image(s).

"Reproduction"

Includes any form of copying or publication of the whole or part of any Image whether by printing, slide projection or other display (whether or not to an audience), electronic, digital or mechanical means, use as a reference by an artist or in an artist's illustration or by any other means. Reproduction further includes the copying or distortion or manipulation of the whole or part of any Image (for example, by computer, electronically, digitally by an artist or by any other means), even though the resulting image may not appear to a reasonable person to be derived from the original Image.

"Release"

Means a model or property release or any other release of a third party right or other permission which it is necessary or desirable to obtain in respect of any Image.

"License Fee"

Means any sum or sums payable to Alamy by you in respect of the License.

2. Contracting parties

The parties to this contract are Alamy and you. Alamy has been appointed agent by its Contributors to grant this License on their behalf.

3. Grant of rights and restrictions

1. Alamy grants to you a non-exclusive and non-assignable right to Reproduce the Image(s) on a worldwide and perpetual basis solely as part of the following (or as otherwise agreed in writing by Alamy):

1. advertising and promotional materials (including packaging);
2. online or other electronic distribution systems (including web page design, but subject to clause 3.8) up to a maximum resolution of 72 dpi;

3. broadcasts or theatrical exhibition;
 4. any products (including for-sale products) or publications (electronic or print), subject to clause 3.8; and/or
 5. materials for personal, non-commercial use and test or sample use, including comps and layouts. *Please note, not all of Alamy's Images have Releases. It is your responsibility to check that all necessary Releases have been secured (see clause 8.3 below).*
2. You may alter, crop, manipulate and create derivative works from the Image(s).
 3. The Image(s) may be shared by creating an image library, network configuration or other similar arrangement so long as no more than ten (10) individuals employed by the same entity have access to the Image(s) This is not a "simultaneous users License ", in other words you may not have more than ten (10) specific people access the Image(s) even if only ten (10) people are accessing the Image(s) at any particular time. For the Image(s) to be used by more than ten (10) individuals you must first contact Alamy to negotiate an extension of the License .
 4. If you are an intermediary (for example an advertising agency) you may not sublicense, sell, assign, convey or transfer this Agreement or any of its rights under this Agreement but you may sub-license an Image as part of a derivative work (for example an advertisement) to your clients. Should your clients wish to incorporate the Image in their own work they should contact Alamy to purchase a License .
 5. The Image(s) as stored by you must retain the copyright symbol, the name of Alamy, the Image(s)' identification numbers and any other information as may be invisibly embedded in the electronic files containing the original Image(s).
 6. The Image(s) may not be distributed by a mobile phone device or personal digital assistant (Blackberry or other similar device)in a way that would allow any third party to download, extract or access the Image(s) as a standalone file.
 7. You must not incorporate Images (or any part of them) into a logo, trade mark or service mark or application thereof.
 8. The Image(s) may not be sublicensed, resold or otherwise made available for downloading, use or distribution separately. For example, the Image(s) may be used as an integral part of a web page design, but may not be made available for downloading separately or in a format designed or intended for permanent storage or re-use by website users. Nor can you make available images for your customers to select and insert into personalized on-line templates or consumer goods.

Your customers may be provided with copies of the Image(s) as an integral part of work product, but may not be provided with the Image(s) or permitted to use the Image(s) separately.

9. If any Image featuring a model is used in (i) a manner that would lead a reasonable person to believe that the model personally uses or endorses a product or service, or (ii) if the depiction of the model in the Image would be unflattering or unduly controversial to a reasonable person, you must accompany each such use with a statement indicating that the person is a model and the Image is being used for illustrative purposes only.
10. Alamy does not warrant the accuracy of the captioning, keywording or any other information associated with the Image(s).
11. You may not use the Image(s) in a pornographic, defamatory, fraudulent, lewd, obscene or otherwise illegal manner, including but not limited to infringing any third party intellectual property or privacy rights, whether directly or in context or by juxtaposition with other materials.
12. You must abide by any restriction on use notified to you by Alamy before, after or at the time of delivery of the Image(s), either in the information accompanying the Image(s), the Invoice or otherwise.
13. Alamy, after reasonable notice, may inspect any records, accounts and books relating to the reproduction of any of the Image(s) to ensure that the Image(s) are being used in accordance with this Agreement.

4. Intellectual Property Issues

Nothing herein is intended or shall be construed to transfer or assign any Intellectual Property rights of the Contributors or Alamy to you. You acknowledge that all right, title and interest in and to the Image(s), including, without limitation, any and all trademark, copyright and any other Intellectual Property rights therein remain with the Contributors, and nothing contained herein shall be construed to convey any rights or propriety interest in the Image(s) other than the specific rights granted in Section 3 herein.

Unless otherwise agreed by the parties in writing, if any Image is reproduced by you for editorial purposes only (e.g for any non-promotional or advertising purpose) you must include the credit line, "(Photographer's or Agency's name)/Alamy" or any other credit line specified by Alamy. If such required credit line is omitted, you will be responsible for payment of an additional fee for use of the Image equal to thirty percent (30%) of the original amount invoiced attributable to the Image in question.

5. Warranty and limitation of liability

1. Alamy guarantees that should any Image have defects in material or workmanship and these are notified in writing to Alamy within thirty (30) days from the date of delivery of the Image then Alamy will either replace the Image with another digital copy of the Image free from defect or refund the License Fee paid by you to the extent attributable to the defective Image, at Alamy's option.
2. **Alamy makes no other warranty, express or implied, including, without limitation, any implied warranties of merchantability or fitness for a particular purpose. Neither Alamy nor its contributors shall be liable to you or any other person or entity by reason of any representation (unless fraudulent) or any implied warranty, condition or other term, or any duty at common law, or under the express terms of this Agreement for any loss of profit or any indirect, special or consequential loss, damage, costs, expenses or other claims (whether caused by the negligence of Alamy, its servants or agents or otherwise) which arises out of or in connection with this Agreement, even if Alamy has been advised of the possibility of such damages, costs or losses. Alamy's maximum liability arising out of or in connection with your use of or inability to use the Image (whether in contract, tort or otherwise) shall, to the extent permitted by law, be limited to five (5) times the value paid by you for the relevant Image.**
3. Each provision of clause 5.2 is to be construed as a separate limitation (applying and surviving even if for any reason one or other of such provisions is held to be inapplicable, unreasonable or unenforceable in any circumstances) and shall remain in force notwithstanding the termination of this Agreement.

6. Payment

No Reproduction of any Image is authorized until payment in full has been received by Alamy. Any Reproduction by you or on your behalf prior to payment being received by Alamy constitutes a breach of this Agreement which entitles Alamy immediately to terminate this Agreement and further constitutes an infringement of copyright and other Intellectual Property rights.

7. Indemnity

You agree to indemnify and hold harmless Alamy, its Contributors and their respective parents, subsidiaries, successors, assigns, and all employees and agents thereof against any and all claims, damages, losses, expenses or costs, including but not limited to any reasonable attorney's fees, arising out of any unauthorized use or allegedly unauthorized use of any Image

supplied to you by Alamy, on behalf of a Contributor, or any other breach by you of any of your obligations under this Agreement. **The terms of this clause 7 shall survive the expiration or earlier termination of this Agreement.**

8. Release information

1. **Alamy gives no representations or warranties whatsoever as to the existence of any Releases associated with the Image(s).**
2. Alamy gives no representations or warranties whatsoever with respect to the use of names, trade marks, logos, uniforms, registered or copyrighted designs or artistic works depicted in any Image.
3. You must satisfy yourself that all Releases as may be required for Reproduction of the Image(s) have been secured. You are solely responsible for obtaining all such Releases and the License is conditional in each case on your obtaining them. If you are unsure as to whether any Releases are needed for your Image usage, then it is your responsibility to consult with relevant parties. You shall not rely upon any representation or warranty given by Alamy employees or representatives save as set out in this Agreement.
4. Failure or refusal by you to secure the relevant Releases for Reproduction of the Image(s) is considered a breach of this Agreement and a breach of Intellectual Property rights, for which you shall be solely liable and for which you shall indemnify and hold harmless Alamy, its Contributors, and their respective parents, subsidiaries, successors, assigns, and all employees and agents. **This indemnification is in addition to, not in lieu of, the indemnification set forth in Section 7 herein and shall survive the expiration or earlier termination of this Agreement**

9. License fee

Use of an Image in a manner not specifically authorized under the terms set out in the Invoice or otherwise in the Agreement constitutes a breach of the Agreement and an infringement of copyright.

10. License cancellation

Provided you have not used the Image(s) you may cancel the License within 30 days from the date of the Invoice by sending Alamy an email with notification of the cancellation to the following address: sales@alamy.com.

- You may cancel the License within ten (10) days from the date of the Invoice without charge.

- If you cancel less than thirty (30) days after the Invoice date, a cancellation fee of fifty (50%) percent of the Invoice will be charged.
- *After thirty (30) days, no cancellations will be accepted and the full amount of the Invoice must be paid.*

Cancelling the License revokes any right to publish, reproduce or use the Image(s) in any manner whatsoever.

11. Interest on overdue invoices and reasonable recovery costs

1. Unless otherwise agreed by us in writing, all Invoices are payable by you within 30 days.

If you do not make full payment of an Invoice on time we reserve the right to charge interest on the outstanding amount at the rate of one and a half percent (1.5%) per month from the date payment was due until payment is received by Alamy.

2. **Condition of images**

You should make sure that you examine the Image(s) for possible defects (whether digital or otherwise) before sending the Image(s) for Reproduction. Subject to clause 5.1, Alamy shall not be liable for any loss or damage suffered by you or any third party arising from any alleged or actual defect in any Image or its caption or in any way from its Reproduction.

12. Downtime

Due to the nature of server provision, downtime and lost transmissions may occur as part of routine maintenance. You are advised to maintain a copy of your account status and details of Image(s) purchased.

13. Miscellaneous terms

1. The License will terminate immediately if you (a) enter into voluntary or compulsory liquidation, (b) have a receiver appointed or (c) fail to perform any of your obligations under the Agreement within 28 days of our giving you notice to comply. In the event of termination, all rights granted will immediately revert to us and any further exploitation of any Image shall constitute an infringement of copyright.
2. No variation of any of these Terms shall be effective unless in writing and signed by Alamy and you. No action of Alamy, other than an express written waiver, may be construed as a waiver of any clause of this Agreement. In the event that Alamy waives

any specific part of this Agreement, such fact does not mean that any other part is waived. In the event of any inconsistency between the Terms and the terms contained in any purchase order or other communication sent by you, the terms of this Agreement shall prevail.

3. Should any clause of this Agreement be found unenforceable, that will not affect any other clause and each will remain in full force and effect.
4. In the event Alamy retains an attorney or collection agency to collect any outstanding payment due by you, you agree to pay all collection costs, attorneys' fees and court costs relating thereto, in addition to any outstanding amounts due and applicable interest.
5. The validity of this Agreement and the interpretation and performance of all of its terms shall be governed by the laws of the State of New York. You hereby irrevocably agree to submit to the personal jurisdiction and venue of any state or federal court located in the City of New York, State of New York, and expressly waive any claim or defense that such forum is not convenient or proper for purposes of any action arising under this Agreement. The parties hereto waive any right they may have to a jury trial.
6. You recognize that the Image(s) possess a special, unique and extraordinary character which makes difficult the assessment of monetary damages which Alamy or its Contributors might sustain by an unauthorized use. You agree that irreparable injury would be caused to Alamy or its Contributors by such unauthorized use, and that injunctive relief would be appropriate in the event of breach of this Agreement.
7. If after notice to you, you fail to take any action which you are obliged to take hereunder, Alamy and its Contributors shall have the right and option, but not the duty, to bring an action for specific performance to compel such action, and obtain all reasonable costs, expenses, attorney's fees and disbursements with respect thereto if such specific performance is awarded by a court of competent jurisdiction.
8. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective legal representatives, successors, and assigns.
9. This Agreement supersedes all prior understandings both oral and written between the Parties and constitutes the entire agreement between the Parties.