

Westend61 Royalty Free Licence Agreement End User License Agreement (EULA)

This legal agreement applies to Royalty Free Images purchased online and/or on CD ROM and/or on a VCD (virtual CD), hereafter called "the Images". This is a legal agreement between you, hereinafter referred to as "the Licensee", and Westend61 OHG, hereafter called Westend61. By using the Images you agree to be bound by this licence.

If you are entering this agreement on behalf of your employer, the licence granted and restrictions and limitations recited herein apply to your employer as well as to you as a representative of your employer. Should you cease working for your employer, your employer may continue to operate under this Agreement.

1. Grant of Rights

- 1.1 Westend61 grants to the Licensee a non-transferable nonexclusive license to use the Images, in consideration of the obligations, warranties and undertakings of the Licensee in this Agreement, and subject to and conditional upon their full and timely performance and observance.
- 1.2 This licence permits the following uses of the Images: You may use the images in your personal, professional, editorial and client projects including printed materials, advertisements, packaging, presentations, film, video, commercials for television broadcast, online or multimedia projects, computer games and web designs.
- 1.3 The Images may be accessed and used by up to 10 employees of the Licensee, on a computer network. For sharing on larger networks, an upgrade license is required. Please approach Westend61 (office@westend61.de) or one of our sub-contractors for this purpose. You may make one copy of an image solely for backup or archival purposes or transfer the image to a single hard drive, provided that you keep the original and accompanying documentation in your possession.

2. License Restrictions and Warranties

- 2.1 The Licensee warrants and undertakes not to assign or license the use of the Images or any portion thereof for any purpose other than those purposes specifically agreed between Westend61 and the Licensee under this Agreement. The Images may not be resold or otherwise made available for use or distribution separately or detached from a product or web page. The Licensee may not loan, rent, hire or otherwise transfer or purport to transfer the right to use the Images in any way to any other person or entity, including but not limited to: the design of websites, digital cards, business cards or any other digital or print media.
- 2.2 Use as a logo, trademark or service mark is not permitted.
- 2.3 The Images may not be placed on any electronic bulletin board, or online in a downloadable format, or used in a Website at a resolution higher than 72dpi.
- 2.4 You may not under the terms of this Agreement 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.). For such usages of an Image you must acquire an extended onetime Commercial Product Image License from Westend61. Please contact Westend61 (office@westend61.de) for this purpose.

- 2.5 It is forbidden to use the Images or portions of them for the production of pornographic, defamatory, libellous or defamatory materials, or allow this to other parties, whether directly or in context or juxtaposition with other materials. In connection with a subject that would be unflattering or unduly controversial to a reasonable person, including but not only: sexual issues, AIDS, serious physical or mental diseases, drug abuse, etc., the Licensee must accompany each such use with a statement that indicates that the person is a model and that the Images are being used for illustrative purposes only. If the Licensee intends to use the Images for such sensitive issues, then he is obliged to inform and ask for permission of such application with Westend61 beforehand.
- 2.6 The Licensee accepts and warrants that the use of the Images shall not infringe any third party rights, of any nature, and any liability for the infringement of third party rights, of whatsoever nature, shall rest with the Licensee. Westend61 grants no rights and makes no warranties with regard to the use of names, trademarks, trade dress, registered, unregistered or copyrighted designs or works of art or architecture depicted in the Images, and Licensee must satisfy itself that all the necessary rights or consents regarding any of the above, as may be required for reproduction, have been obtained.
- 2.7 This Agreement is valid until its end. This Agreement terminates automatically upon failure by the Licensee to comply with its terms.

3. Copyright

- 3.1 The Images are copyright © Westend61 and/or its licensors. The Images are protected by German Copyright laws, international treaty provisions and other applicable laws. No title or intellectual property rights in the Images are transferred to the Licensee.
- 3.2 The Licensee shall ensure that all copies of the Images published and distributed by the Licensee shall contain full notice that the copyright is retained by Westend61

4. Limited Warranty

- 4.1 Westend61 warrants for a period of 60 days from delivery that the Images is free from defects in material and workmanship. Your sole and exclusive remedy for a breach of this warranty is the replacement of the Images or a refund of the purchase price, at the option of Westend61. Westend61 makes no other warranty nor agrees any other condition, representation or undertaking, either express or implied, of any nature, including as to merchantability, satisfactory quality, fitness for any particular use or compatibility with any computer or other kind of equipment. Neither Westend61 nor any of its agents or employees shall be liable to any distributor or other reseller, customer, end user or other person or any indirect, incidental, special or consequential damages (including loss of profit, business, revenue, goodwill or anticipated savings) resulting from its performance or non-performance of this Agreement or the use of, or inability to use the Images provided under this Agreement or arising (or which might be claimed) under any other cause of action or theory of claim.

5. Determination

It shall constitute repudiation by the Licensee of its obligations under this Agreement if:

- 5.1 The Licensee fails to pay any amount due under this Agreement within 10 working days of the due date.

- 5.2 The Licensee is in breach of any other term of this Agreement.
- 5.3 Any of the Licensee's representations shall prove to have been incorrect.
- 5.4 The Licensee is declared or becomes insolvent or bankrupt, or the Licensee is put into examinership, receivership, administration or liquidation. Westend61 reserves the right to accept such repudiation on the part of the Licensee and to determine the license Agreement forthwith and to demand the immediate return of all Images in whatever form supplied or held created or produced by the Licensee.

6. General Provisions

- 6.1 The provisions of this Agreement shall be governed by and construed in accordance with the laws of the Federal Republic of Germany, whose courts shall be the courts of sole jurisdiction in relation to this Agreement. Notwithstanding the foregoing, the Westend61 shall 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 Licensee.
- 6.2 This Agreement will not be governed by the United Nations Convention on Contracts for the International Sale of Goods. If any part of this Agreement is found void and unenforceable, it will not affect the validity of the balance of the Agreement, which shall remain valid and enforceable according to its terms.