

LUM3N

Terms of Service

(Agreement to License Media Content)

The following is a legal agreement made between you or the entity on whose behalf you are acting ("you" or "Customer") and Kluge Burch & Partner GmbH having its registered office at Buchzelgstrasse 36, 8053 Zurich, Switzerland acting in its capacity as the operator of the website www.lum3n.com ("we" or "Lum3n"). It sets out the rights and obligations with respect to any Images licensed by you from the Lum3n website ("Images").

1. Types of Licenses

Images for Free Download

Images offered for free download from Lum3n are released under the Creative Commons CC0 license. The terms of that license are available at <https://creativecommons.org/publicdomain/zero/1.0/>.

You may use these Images for private or commercial purposes and create derivative works without having to attribute them to the creator of the Image or Lum3n. Nevertheless a link back to the Lum3n website is appreciated.

Images for Purchase

When you purchase an Image from Lum3n, we grant you the exclusive right to use, modify and reproduce the Image worldwide as expressly permitted by this license agreement. You may use purchased Images

- a) Without limitation of time;
- b) In any geographical location;
- c) For unlimited digital reproduction, including on websites, in online advertising, in social media, in mobile advertising, mobile "apps", software, e-cards, e-publications, and in online media;
- d) For an unlimited amount of prints in physical form as part of product packaging and labeling, letterheads and business cards, point of sale advertising, billboards, CD or DVD cover art, or in the advertising and copy of tangible media, including magazines, newspapers, and books;
- e) For incorporation into film, video, television series, advertisement, or other multimedia productions for distribution in any medium, without regard to audience size;
- f) For incorporation into merchandise intended for sale or promotional distribution, including, without limitation, textiles, artwork, magnets, wall-art, calendars, toys, stationery, greeting cards, and any other physical reproduction for resale or distribution, provided that such merchandise incorporates material creative or functional elements apart from the Image(s).
- g) In wall art (and without requiring further creative or functional elements) for decorative purposes in a commercial space owned by

the buyer or his client, incorporated as elements of digital templates for sale or distribution.

- h) For personal, non-commercial use

2. Usage Restrictions

Irrespective of the type of license you purchase, you may not use Images from Lum3n

- a) To portray any person depicted in Images (a "Model") in a way that a reasonable person would find offensive, including but not limited to depicting a Model:
 - i. in connection with pornography, "adult videos", adult entertainment venues, escort services, dating services, or the like;
 - ii. in connection with the advertisement or promotion of tobacco products;
 - iii. in a political context, such as the promotion, advertisement or endorsement of any party, candidate, or elected official, or in connection with any political policy or viewpoint;
 - iv. as suffering from, or medicating for, a physical or mental ailment;
 - v. engaging in immoral or criminal activities.
- b) In a pornographic, defamatory, or deceptive context, or in a manner that could be considered libelous, obscene, or illegal.
- c) To resell, redistribute, provide access to, share or transfer any Images except as specifically provided herein. For example and not by way of limitation, the foregoing prohibits displaying Images as, or as part of, a "gallery" of content through which third parties may search and select from such content.
- d) In a manner that infringes upon any third party's trademark or other intellectual property, or would give rise to a claim of deceptive advertising or unfair competition.

3. Warranties and Representations

- a) Lum3n warrants and represents that all Contributors of Images on www.lum3n.com have granted Lum3n all necessary rights in and to such Images, which are necessary to grant the right set forth in Section 1.
- b) Lum3n makes no representations or warranties whatsoever other than those expressly made in this "Warranties and Representations" section.

4. Ownership of Digital Material and Exclusivity of Usage

Title to all Images remains the property of Lum3n or the respective photographer.

You will be authorized to publish the Images you bought from Lum3n to the exclusion of all other persons including Lum3n and the respective

photographer. However, Lum3n and the photographer retain the right in all cases to use the Images in any manner at any time and in any part of the world for the purposes of advertising or otherwise promoting his or her work.

5. Use

The License to use the Images comes into effect from the date of payment of the relevant invoice(s). Without Lum3n's express permission no use may be made of the Images before payment has been received. Any permission which may be given for prior use will automatically be revoked if full payment is not made by the due date or if Customer is put into receivership or liquidation. The License only applies to Customer and product as stated on the invoice and its benefit shall not be assigned to any third party without Lum3n's permission. Accordingly, Lum3n's permission must be obtained before any use of the Images for other purposes e.g. use in relation to sublicensing through a photo library.

6. Delivery

Lum3n will deliver the purchased Images by emailing you a link from which the Content in question can be downloaded. Lum3n will send the download link within 3 business days from the day on which payment has been received.

7. Indemnification and Liability

Neither Party shall be liable to the other Party in contract, tort, negligence, breach of statutory duty or otherwise for any loss, damage, costs or expenses of any nature whatsoever incurred or suffered by that other Party of an indirect or consequential nature including without limitation any economic loss or other loss of turnover, profits, business or goodwill.

Lum3n's liability under or in connection with this Agreement whether arising in contract, tort, negligence, breach of statutory duty or otherwise shall not exceed the Fee(s) paid by Customer under this Agreement.

Customer shall indemnify and hold harmless Lum3n, its employees and third parties from and against all Claims and Losses arising from loss, damage, and liability for infringement of third party intellectual property, or third party losses by reason of or arising out of any Image supplied to Customer by Lum3n or its employees within or outside the scope of this Agreement. 'Claims' shall mean all demands, claims, proceedings, penalties, fines and liability (whether criminal or civil, in contract, tort or otherwise); and 'Losses' shall mean all losses including without limitation financial losses, damages, legal costs and other expenses of any nature whatsoever.

8. Additional Terms

- a) Content is provided as is: Except as expressly set forth in Section 3, all Images are provided "as is" without warranty of any kind, either express or implied, including, but not limited to the implied warranties of non-infringement, merchantability, or fitness for a particular purpose. Some Images may contain elements that require additional clearance if they are modified or used in a particular context. If you make such modification or use the Images in such context, you are solely responsible for obtaining any additional clearances thereby required.
- b) Fitness for a particular purpose: Lum3n does not warrant that the Images sold through its online store will meet Customer's requirements or that the use of its website will be uninterrupted or error free.
- c) Accuracy of Keywords and Descriptions: While Lum3n makes commercially reasonable efforts to ensure the accuracy of keywords and descriptions, we makes no warranties or representations regarding any keyword, title, or description used in our online shop.
- d) Authority to enter into agreement: If you are entering into this agreement on behalf of your employer or any other person or entity, you warrant and represent that you are authorized to do so. In the event that you do not have such authority, you agree that you will be personally liable to Lum3n for any breaches of the terms of this agreement.
- e) Payment: Payment for purchased Images will be expected within 30 days of the issue of the relevant invoice. If the invoice is not paid, in full, within 30 days, the Lum3n reserves the right to charge interest at the currently effective benchmark interest rate from the date payment was due until the date payment is made.
- f) Acceptance of your order: Acceptance of your order is conditional upon availability of the requested Images. Upon receipt of your order Lum3n will determine availability and if your order is accepted you will receive a written Order Confirmation. If you have made a payment in advance and your order has not been confirmed, Lum3n will reimburse you within 3 business days using the method you used for your payment.
- g) Rejection: Unless a rejection fee has been agreed in advance, there is no right to reject on the basis of style, composition or image quality.
- h) Refunds: Except when required by law or where stipulated by this agreement, Lum3n shall be under no obligation to issue refunds for a confirmed order. In the event that Lum3n determines that you are entitled to a refund, such refund shall be made using the payment method originally used by you to make your purchase.
- i) Non-transferability: The licenses acquired pursuant to this agreement are "Non-transferable" which means that except as specifically provided herein, you may not sell, rent, load, give, sublicense, or otherwise transfer to anyone, Images or the right to use Images. You may however, make a one-time transfer of Images to a third party for the purpose of having such third party to print or manufacture your goods incorporating Images subject to the terms and conditions herein.

- j) Severability: If any provision of this agreement is or becomes invalid, illegal or unenforceable in any respect under the law of any jurisdiction, whether or not pursuant to any judgment or otherwise, that provision shall be divisible from this agreement and shall be deemed to be deleted from it and the validity of the remaining provisions shall not be affected. If any such deletion materially affects the interpretation of this agreement, the parties shall use their best endeavors to negotiate in good faith with a view to agreeing a substitute provision as closely as possible reflecting the commercial intention of the parties.
- k) Third Party Rights: This Agreement is not intended to, and does not, give any person who is not a party to it any right to enforce any of its provisions.
- l) Force majeure: Neither Party shall have any liability under or be deemed to be in breach of this Agreement for any delays or failures in performance of this Agreement which result from circumstances beyond the reasonable control of that Party. The Party affected by such circumstances shall promptly notify the other Party in writing when such circumstances cause a delay or failure in performance and when they cease to do so. If such circumstances continue for a continuous period of more than 7 days, either Party may terminate this Agreement by written notice to the other Party.
- m) Amendments: This Agreement may only be amended in writing signed by duly authorized representatives of the Parties.
- n) Entire agreement: This Agreement contains the whole agreement between the Parties and supersedes and replaces any prior written or oral agreements, representations or understandings between them. The Parties confirm that they have not entered into this Agreement on the basis of any representation that is not expressly incorporated into this Agreement. Nothing in this Agreement excludes liability for fraud.
- o) Client Confidentiality: We will keep confidential and will not disclose to any third parties or make use of material or information communicated to us in confidence for the purposes of the photography, save as may be reasonably necessary to enable us to carry out our obligations in relation to this or any other Agreement with Customer.
- p) Applicable Law: This agreement shall be governed by the laws Switzerland and the courts of Zurich shall have exclusive jurisdiction over any disputes arising from or in relation to this agreement.
- q) Variation: These Terms and Conditions shall not be varied except by agreement in writing.
- r) Photographer's right to use own works for promotional purposes: Kluge Burch & Partner GmbH reserves the right to use the Images for promotional purposes, such as display on the Lum3n.com website, social media campaigns, or other promotional activities.
- s) Data Privacy: All data collected through our website www.lum3n.com is processed in accordance with our Privacy Policy which is available at www.lum3n.com. By ordering Images from the Lum3n online store Customer represents that he or she has read the policy and agrees to the practices described therein.

- t) Waiver: No failure or delay by Lum3n in exercising any right, power or privilege under this Agreement shall impair the same or operate as a waiver of the same nor shall any single or partial exercise of any right, power or privilege preclude any further exercise of the same or the exercise of any other right, power or privilege. The rights and remedies provided in this Agreement are cumulative and not exclusive of any rights and remedies provided by law.
- u) Notices: Any notice, demand or other communication given or made under or in connection with the matters contemplated by this agreement shall be in writing and shall be delivered via email to

info@kluge-partner.com

or as registered letter to

Kluge Burch & Partner GmbH
Buchzelgstrasse 36
8053 Zurich
Switzerland

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