

LICENCE CONDITIONS FOR CATWALKING.COM PICTURES

PLEASE READ THESE TERMS CAREFULLY BEFORE USING OUR PICTURES.

1 GENERAL INFORMATION, DEFINITIONS AND INTERPRETATION

1.1 www.catwalking.com is a site operated by Christopher Moore Limited (trading as Catwalking) (“we”/“our”/“us”).

1.2 We are registered in England and Wales under company number 00802364 and our registered office and main trading address is 124 Hemingford Road, London N1 1DE. Our general email address is catwalking@chrismoore.co.uk. Our VAT number is No.239015378.

1.3 In this Agreement, unless the context otherwise requires:

“**Agreement**” means the agreement between us and the Licensee comprised of, collectively, the Order Confirmation, the Invoice and these Conditions;

“**Conditions**” means these licence terms and conditions;

“**Editorial Purpose**” means the Reproduction of the Licensed Material(s) for the purposes of reporting, commenting on and/or illustrating events that are newsworthy or of public interest;

“**Fee**” means the fee payable by the Licensee for the licence of the Licensed Material(s) under this Agreement;

“**Invoice**” means the standard form invoice provided by us which sets out details of the Licensed Material(s) and the Fee for the provision of such materials;

“**Licensed Material(s)**” means the Materials licensed to the Licensee;

“**Licensee**” means the entity specifically designated as the licensee during the licensing process and shown in the Invoice as the entity acquiring a licence of the Licensed Material(s) under this Agreement;

“**Materials**” means our still image or film or video footage or audio product or visual representations whether generated optically, electronically, digitally or by other means, including negatives, transparencies, prints, original digital files, or other product protected by copyright, trademark or other intellectual property rights;

“**Minimum Order**” means 12 images or such other quantity as may be specified on the website by us;

“**Order Confirmation**” means the order confirmation sent by us in accordance with Condition 3.1;

“**Price List**” means the list of estimated prices for a licence of our Materials which we send to the Licensee prior to them placing an order for the Licensed Material(s) in accordance with Clause 3.1;

“**Reproduction**” or “**Reproduce**” means publication of the whole or a part of the Licensed Material(s), including the distortion, alteration, cropping or manipulation of the whole or a part of the Licensed Material(s), and the creation of any derivative work from, or that incorporates, the Licensed Material(s);

“**Restrictions**” means the conditions which restrict the permitted scope of use of the Licensed Material(s) (or part thereof) contained in this Agreement including in particular at Condition 4.2;

“Website” means our website from time to time at www.catwalking.com;

“You” means the person or entity which represents the Licensee that enters into the Agreement on the Licensee’s behalf.

- 1.4 Any phrase in this Agreement introduced by the term **“include”**, **“including”**, **“in particular”** or similar expression will be construed as illustrative and will not limit the sense of the words preceding that term.

2 APPLICATION OF THESE TERMS AND CONDITIONS

- 2.1 This Agreement sets out the terms on which we supply our Materials. By ordering our Materials, the Licensee agrees to be bound by these terms.
- 2.2 If the Licensee refuses to accept these terms, it will not be able to order Materials from the Website. If the Licensee has difficulty in understanding the terms or has queries, please contact our customer services team at catwalking@chrismoore.co.uk who will be happy to assist.

3 HOW THE CONTRACT IS FORMED BETWEEN US AND THE LICENSEE

- 3.1 In response to an enquiry by the Licensee for the purchase of a licence of Materials, we will send a Price List. Following receipt of the Price List, the Licensee’s order for Material(s), subject to placing a Minimum Order via the Website, constitutes an offer to obtain a licence of the Material(s). All orders are subject to acceptance by us. After receiving an order, we may accept the order by sending the Licensee an e-mail that confirms that we have accepted the Licensee’s order in whole or in part and attaching copies of the ordered Material(s) (or any number thereof) in the appropriate format (the **“Order Confirmation”**). The Agreement in respect of the Material(s) attached to the order confirmation will only be formed when we send the Order Confirmation.
- 3.2 The Agreement will relate only to the Material(s) attached to the Order Confirmation. We will not be obliged to supply the remaining Materials which may have been part of the order unless we have accepted the order for such Materials and confirmed by a separate Order Confirmation.

4 RIGHTS GRANTED AND USAGE RESTRICTIONS

- 4.1 In consideration of payment by the Licensee of the Fee and subject to the Conditions, we grant the Licensee the non-exclusive, non-transferable right to Reproduce once only (unless more possible Reproductions are agreed by us in writing) the Licensed Material(s) for Editorial Purposes only at any time during the full term of copyright subsisting in the Licensed Material(s) and all renewals, revivals and extensions of it.
- 4.2 Restrictions on the use of the licence granted under Condition 4.1 shall include:
- 4.2.1 Licensed Material(s) must only be used for Editorial Purposes. In particular the Licensee shall not use the Licensed Material(s) for any commercial, sponsorship, endorsement, merchandising, advertising or promotional purposes.
- 4.2.2 The Licensee shall be allowed to crop the Licensed Material(s) in its Reproduction of them provided however that such cropping does not affect the editorial integrity of the Licensed Material(s).
- 4.2.3 Subject to the right to crop the Licensed Material(s) in accordance with Condition 4.2.2, the Licensee shall not otherwise (and by any means) alter, change, rotate or edit the Licensed Material(s) without our prior written consent.
- 4.2.4 Any defamatory, offensive, infringing, obscene, indecent, pornographic or other unlawful or objectionable use (whether directly or due to their appearance next to other items) of the Licensed Material(s) is strictly prohibited.

- 4.2.5 The Licensee shall ensure that its Reproduction of the Licensed Material(s) complies with all applicable industry regulations and codes of conduct as well as all applicable laws and legal requirements. The Licensee shall indemnify us and keep us indemnified from and against all costs, claims, demands, liabilities, expenses, damages or losses (including without limitation direct, indirect or consequential losses, loss of profit and loss of reputation, and all interest, penalties and legal and other professional costs and expenses) incurred by us arising out of or in connection with failure of the Licensee to fulfil its obligations under this Condition 4.2.5.
- 4.2.6 The Licensee shall not directly or indirectly copy the Licensed Material(s) save as expressly permitted in this Agreement.
- 4.2.7 The Licensee shall use its best endeavours to ensure that the Licensed Material(s) are not available to any third party to copy or extract (in whole or part).
- 4.2.8 The Licensee shall not use the Licensed Material(s) as part of unsolicited (commercial or otherwise) e-mail (i.e. spam) or other material for marketing or publicity purposes.
- 4.3 The Licensee shall indemnify us, our officers, employees, and licensors in respect of losses that we or they may suffer as a result, directly or indirectly, of a breach by the Licensee of this Condition 4.
- 4.4 If the Licensee learns of any infringement or threatened infringement of the Licensed Material(s) or of action detrimental to the Licensed Material(s) or of a third party allegation that the Licensed Material(s) infringe the rights of third parties or of a suspected use of the Licensed Materials by third parties without our permission then the Licensee shall forthwith and without delay notify us giving full particulars of such circumstances and the Licensee shall make no comment or admission to a third party in respect of such circumstances.

5 **COPYRIGHT CREDIT**

- 5.1 The Licensee shall procure that every Reproduction of the Licensed Material(s) shall bear the following copyright notice together with the year stated on the copyright notice on the materials that we provide to the Licensee: © Christopher Moore Limited (trading as Catwalking) [2012].

6 **RELEASES**

The Licensee shall be solely responsible for obtaining any necessary releases from third parties other than the photographer for its use of the Licensed Material(s). Except as stated in Condition 11.1 we do not make any warranty in relation to the Licensee's use of the Licensed Material(s). The Licensee shall be responsible for the use of the Licensed Material(s).

7 **FEES AND PAYMENT**

- 7.1 The Fees shall be due within 30 days of the date of the Invoice.
- 7.2 Our prices are quoted exclusive of VAT. The Licensee shall pay VAT in addition to the Fee and shall be responsible for all other taxes and duties that are payable in relation to the Licensed Material(s) (if any).
- 7.3 Payment for all Licensed Material(s) must be by cheque or bank transfer in accordance with the details set out in the Invoice.
- 7.4 If payment of an Invoice is not made in full by the due date, we shall, without prejudice to any other rights or remedies, have the right to:
- 7.4.1 suspend any further deliveries of our Materials to the Licensee whether under the Agreement or not; and

- 7.4.2 charge the Licensee interest (both before and after any judgment) on the amount unpaid, at the rate of 3% per annum above the Barclays Bank plc base rate from time to time (or such other bank as we may from time to time specify), until payment.

8 COUNTRIES OUTSIDE UK

- 8.1 Some restrictions are placed on the extent to which we accept orders from specific countries outside the UK. These restrictions can be explained on request.
- 8.2 If the Licensee orders Materials from our Website for delivery outside the UK, it may be subject to duties and taxes which are levied when the delivery reaches the specified destination. The Licensee will be responsible for payment of any such import duties and taxes. Please note that we have no control over these charges and cannot predict their amount. The Licensee should contact its local customs office for further information before placing an order.
- 8.3 Please also note that the Licensee must comply with all applicable laws and regulations of the country for which the Licensed Material(s) are destined. We will not be liable for any breach by the Licensee of such laws.

9 INTELLECTUAL PROPERTY

- 9.1 As between us and the Licensee, all intellectual property rights in and to the Licensed Material(s) (and any other Materials) which subsists now or at any time in the future shall without limitation vest in and be our absolute property.
- 9.2 All rights not expressly granted in this Agreement are reserved.

10 STATUS

- 10.1 By placing an order through our Website, You warrant that:
- 10.1.1 You have the authority to act on behalf of the Licensee and to bind it to this Agreement and to all the warranties and indemnities contained herein; and
- 10.1.2 if the Licensee disputes your authority to act of behalf of it and to bind it to this Agreement or if You do not have such authority, You agree to be liable for any breach of this Agreement (by act or omission) by the Licensee.
- 10.2 The Licensee hereby represents and warrants to us that:
- 10.2.1 it is duly incorporated and validly existing under the laws of its place of incorporation and has the full right, power and authority to enter into and perform this Agreement in accordance with its terms;
- 10.2.2 the Agreement has been duly entered into by or on behalf of it in accordance with all rules that apply to it and constitutes legal, valid and binding obligations, enforceable against it in accordance with its terms;
- 10.2.3 the entering into and performance of the Agreement has been approved by it in accordance with all rules that apply to it and will not:
- (a) conflict with, or result in a breach of, or constitute a default under, or result in a violation of, any of its constitutional or organisational documents; or
- (b) result in a breach of any law, order, judgment or decree of any court or governmental agency to which it is subject or bound; or
- (c) constitute a breach of or violate any agreement that it has with any person;
- 10.2.4 no act or consent, approval, authorisation or order of any person or entity is required and no condition is required to be satisfied for the entering into and performance of the Agreement;

- 10.2.5 it is placing the order as a business; and
- 10.2.6 there are no claims, actions, suits or proceedings or regulatory investigations pending or, to its knowledge, threatened against or affecting it that would make it in breach of the other representations and warranties in this Condition 10.2.
- 10.3 If we discover that any of the above warranties are incorrect, we shall be entitled to terminate the Agreement and to pursue any legal remedies that we may have under the general law.
- 10.4 The Licensee shall indemnify us, our officers, employees, and licensors in respect of any loss that we or they may suffer as a result, directly or indirectly, of breach by the Licensee of this Condition 10.
- 11 OUR LIABILITY**
- 11.1 We warrant that we have the full right, power and authority to enter into and perform the Agreement in accordance with its terms.
- 11.2 Except as stated in Condition 11.1, all conditions, warranties and representations expressed or implied by statute, common law or otherwise with respect to the Licensed Material(s) are excluded to the fullest extent permitted by law (including, without limitation, any warranty relating to merchantability or fitness for a particular purpose or non-infringement of third party intellectual property rights).
- 11.3 In no event shall we be liable for any losses or damage (whether such losses or damage were foreseen, foreseeable, known or otherwise and whether or not we are advised of the possibility of loss, liability, damage or expense) including:
 - 11.3.1 negligence or tortious loss;
 - 11.3.2 loss of revenue;
 - 11.3.3 loss of actual or anticipated profits (including for loss of profits on contracts);
 - 11.3.4 loss of the use of money;
 - 11.3.5 loss of anticipated savings;
 - 11.3.6 loss of business;
 - 11.3.7 loss of operating time or loss of use;
 - 11.3.8 loss of opportunity;
 - 11.3.9 loss of goodwill or loss of reputation;
 - 11.3.10 loss of, damage to or corruption of data; or
 - 11.3.11 indirect or consequential loss or damage howsoever caused.
- 11.4 Our aggregate liability to the Licensee (including liability for recovery of sums paid by the Licensee and for all damages, costs and expenses) with respect to all claims arising from or in connection with this Agreement shall be limited to an amount not exceeding 100% of the Fee.
- 11.5 The Licensee expressly acknowledges and agrees that the limitations upon our liability in this Condition 11 are in all respects fair and reasonable, reflect a duly considered allocation of risk between us and the Licensee and are reflected in the amounts paid under this Agreement.
- 11.6 The Licensee shall indemnify us, and shall keep us indemnified, in respect of all direct or indirect damages, losses, costs and expenses, suffered or incurred by us (or any of our employees or representatives), which arise from or in connection with all claims, demands, actions, proceedings, or any allegation or dispute, which is caused by or attributable to the use

of the Licensed Material(s) by the Licensee, save to the extent the damages, losses, costs or expenses are the result of a breach of this Agreement by us.

12 TERMINATION

12.1 This Agreement (and therefore the licence to use the Licensed Material(s)) may be terminated by us:

12.1.1 immediately, by us giving the Licensee written notice, if the Licensee is in material breach of an obligation under this Agreement and in the case of any such breach capable of remedy has failed to remedy the breach on receipt of a notice to do so. Breach of the scope of the licence granted in Condition 4.1 or of the restrictions contained in Condition 4.2 shall be deemed to be a material breach not capable of remedy;

12.1.2 immediately by us on giving the Licensee written notice if we learn of potential, threatened or actual claim, action, suit or proceedings in relation to the use of the Licensed Material(s). If we terminate the Agreement pursuant to this Condition 12.1.2 due to a breach by us of Condition 11.1, we shall refund the Fee to the Licensee;

12.1.3 immediately, by us on written notice, if the Licensee: (i) is unable to pay its debts as they fall due; (ii) passes a resolution for winding up (other than for the purposes of a solvent amalgamation or reconstruction) or if a court of competent jurisdiction makes an order to that effect; (iii) enters into a composition or scheme of arrangement with its creditors or if a receiver, manager, administrator or administrative receiver is appointed over any of its assets; (iv) ceases or threatens to cease to do business; or (v) an analogous event occurs to the Licensee in a jurisdiction.

12.2 Termination or expiry of this Agreement, whether under this Condition 12 or not, shall be without prejudice to the accrued rights of the parties on the date of such termination or expiry.

12.3 Upon termination or expiry of this Agreement, howsoever caused:

12.3.1 all unpaid Fees will become immediately payable; and

12.3.2 the Licensee shall immediately return to us all copies of the Licensed Material(s) it has under its possession or control (in whatever form) that are not part of a published editorial report, comment or illustration at the date of termination.

13 GENERAL

13.1 **Amendments.** No amendment of this Agreement shall be effective unless it is in writing and signed by or on behalf of each of the parties.

13.2 **Assignment.** The Licensee may not sub-contract, transfer, assign, charge or otherwise dispose of its rights under this Agreement, or any of its rights or obligations arising under it, without our prior written consent. We may transfer, assign, charge, sub-contract or otherwise dispose of the Agreement, or any of our rights or obligations arising under it, at any time.

13.3 **Force majeure.** We shall not be liable to the Licensee for any delay or non-performance of our obligations under this Agreement to the extent that our performance is interrupted or prevented by any act or omission beyond our reasonable control.

13.4 **Waiver and remedies.** Except as otherwise stated in this Agreement, the rights and remedies of each party under this Agreement are in addition to any other rights or remedies under this Agreement or the general law, and may be waived only in writing and specifically. Delay in exercising or non-exercise of any right or a partial exercise of any right under this Agreement is not a waiver of that or any other right under this Agreement. Waiver of a breach of any term of this Agreement shall not operate as a waiver of breach of any other term or any subsequent breach of that term.

- 13.5 **Severance.** If any provision of the Agreement is or becomes illegal, invalid or unenforceable in any jurisdiction, that shall not affect the legality, validity or enforceability in that jurisdiction of any other provision of the Agreement or the legality, validity or enforceability in any other jurisdiction of that or any other provision of the Agreement. The parties shall negotiate in good faith to modify any such provisions so that to the greatest extent possible they achieve the same effect as would have been achieved by the invalid or unenforceable provisions.
- 13.6 **Entire agreement.** This Agreement constitutes the entire agreement and understanding between the parties with respect to the subject matter of this Agreement, and supersedes and extinguishes any prior drafts, agreements, undertakings, understandings, promises or conditions, whether oral or written, express or implied between the parties relating to such subject matter.
- 13.7 **No reliance.** Each party acknowledges to the other that it has not been induced to enter into this Agreement by nor has it relied upon any representation, promise, assurance, warranty or undertaking (whether in writing or not) by or on behalf of the other party or any other person save for those contained in this Agreement. Accordingly, each of the parties acknowledges and agrees that the only remedy available to it in respect of the subject matter of this Agreement shall be for breach of contract under the terms of this Agreement. Nothing in this Agreement shall exclude liability for fraud or fraudulent misrepresentation.
- 13.8 **Survival.** Notwithstanding any provision of this Agreement to the contrary, the provisions of Conditions 12.3 and 13 and any other Conditions which expressly or impliedly survive expiry or termination of the Agreement for any reason whatsoever shall continue in full force and effect after expiry or termination.
- 13.9 **Rights of third parties.** A person who is not a party to this Agreement has no rights under the Contracts (Rights of Third parties) Act 1999 to enforce, or to enjoy the benefit of, any provision of this Agreement.
- 13.10 **Notices.** All notices between the parties with respect to the Agreement shall be in writing and signed by or on behalf of the party giving it. Any notice shall be duly served (i) on delivery if delivered by hand, (ii) 48 hours after sending if sent by first class post or recorded delivery or (iii) on sending if sent by fax or email (provided that a copy is also sent by post), provided that in each case the notice is sent to the address of the addressee which, in our case, shall be the address in this Agreement and which, in the Licensee's case, shall be the address in the Invoice or such other address as the addressee may from time to time have notified for the purpose of this Condition.
- 13.11 **Governing law and jurisdiction.** This Agreement and any dispute or claim arising out of or in connection with it (including any non-contractual claims or disputes) shall be governed by and construed in accordance with the laws of England and Wales and the parties irrevocably submit to the non-exclusive jurisdiction of the English courts.