

TERMS AND CONDITIONS GOVERNING THE PURCHASE AND REPRODUCTION OF IMAGES FROM THE DIGITAL IMAGE ARCHIVE SYSTEM OF THE CIVIC MUSEUMS OF THE CITY OF ROME

Preface

The Cultural Heritage Department of the City of Rome is developing an innovative way of managing cultural heritage with the aim of generating funds to be allocated to activities which promote and raise awareness of cultural heritage. The sale of photographic images relating to the museums, archaeological sites, villas, fountains etc of the City of Rome has been identified as one of these activities.

With this in mind, a digital image archive has been created. The photographic and ownership rights of the images included in this archive belong to The Cultural Heritage Department of the City of Rome. The images can be viewed and purchased via the 'Musei in Comune' website. The Cultural Heritage department of the City of Rome maintains exclusive ownership and rights to all footage and all photographic images which are linked to photographs displayed on the website 'Foto in Comune'.

Management of the archive and of online sales of the images has been entrusted to Zètema Progetto Cultura S.r.l. (Registered Office Via Attilio Benigni 59, Rome, 00185, - VAT registration number 05625051007 – Tax Code 05625051007 - Company Registration number 05625051007), a wholly owned subsidiary of Roma Capitale (The City of Rome), operating in the cultural sector. As part of its activities, Zètema, on behalf of The City of Rome, manages the website of the Civic Museums and carries out the cataloguing and publishing activities, including the related photographic services, involved in promoting collections and exhibitions.

The above preface forms an integral part of these Terms and Conditions.

1. These Terms and Conditions govern the relationship between Zètema Progetto Cultura S.r.l., hereafter referred to as 'Zètema', in its capacity as the entity in charge of the marketing and administration of the digital image archive 'Foto in Comune' which is the exclusive property of The Cultural Heritage Department of the City of Rome; and users of the service, whether these users be 'consumers' or 'professionals', in relation to the purchase of rights of use of the photographic images, hereafter referred to as 'images', contained therein.
2. 'Consumer' means an individual acting for purposes unrelated to any business, commercial, artisan or professional activity. (Article 3, paragraph 1, letter A) Legislative Decree no. 206/2005).
3. 'Professional' means an individual or legal entity, or their intermediary, acting in the course of their business, commercial, artisan or professional activity, (Article 3, paragraph 1, letter C) Legislative Decree no. 206/2005).
4. By accessing www.foto.museincomuneroma.it, users can view the digital image archive of the Civic Museums of the City of Rome and buy the right to reproduce one or more images. Images will be delivered in the resolution shown on the site at the time of purchase. This will always be the maximum available resolution of the JPEG file included in the 'Foto in Comune' archive.
5. As provided by Resolution No. 109 of 2005 adopted by the City of Rome, and also in accordance with the provisions of article 108 Legislative Decree no. 42/2004, no fee is charged for reproducing images required for personal use or for academic purposes. In these specific cases, however, in order to obtain the right to reproduce images, the

individual concerned must personally contact the museum management to request authorization for exemption from payment of reproduction fees. If, however, the individual decides to buy rights to the images for personal use or academic purposes by using the online service provided by Zètema via the 'Foto in Comune' website, then they must agree to comply with these Terms and Conditions and pay the relevant fees.

6. The contract to purchase rights to use images is finalized upon the completion of the online purchasing process including online payment in full.
7. The amount due, shown in the online price list, varies according to the type of licence required, and is calculated based on the planned use by the customer. During the purchasing process customers are able, at any time, to make any necessary adjustments or correct any input errors. In addition, before final confirmation of the order and payment, which is completed by entering the customer's credit card details, it is possible to view the details of the order, the total amount due together with the applicable VAT and the Terms and Conditions. The order summary can be saved and printed.
8. Following completion of the purchasing process by entering the customer's card details, the images purchased online can be downloaded directly from the List of Purchases on the website. Upon completion, Zètema will send an email confirming the purchase and providing a summary of the order and the price paid, the general Terms and Conditions, information on returns and refund policy and, if requested, an invoice. Payments can only be made through PayPal using Visa, MasterCard, American Express, PayPal Debit Card, Aura or PayPal account.
9. Those interested in obtaining licences not covered in the price list can contact the Cultural Heritage department of the City of Rome in order to agree upon the terms of use and price by sending an email to foto@museiincomuneroma.it. The Cultural Heritage department of the City of Rome will then email a contract proposal for the purchase of the rights of use requested, stating the price and mode of payment. The contract will be finalized upon acceptance of this proposal via email.
10. Before the purchase, the customer should download the Declaration of Use form which must be completed in full to declare the intended use of each licence purchased. The completed and signed form, accompanied by a copy of a photographic form of identity of the customer, should be sent by e-mail to Zètema (foto@museiincomuneroma.it) or by fax (00 39 0682077344) within 10 days from the conclusion of the purchase. Failure to comply with this obligation grants Zètema the right to request payment from the customer of an additional amount of 100% more than the previously agreed cost of the single image by way of liquidated damages, and the right to terminate the contract pursuant to art. 1456 of the Civil Code.
11. Images covered by the contract must be used by the customer within three months of the date of purchase, commencing from the date email confirmation of the purchase is sent by Zètema, as outlined in Clauses 8 and 10 of these Terms and Conditions, depending on how the contract was concluded. After this time the customer no longer has the right to use the image for any purpose, and must destroy and/or delete all images supplied or downloaded together with any copies made.
12. Upon conclusion of a contract as described in Clause 9 above, payment must be made in advance, by bank transfer, to Zètema Progetto Cultura S.r.l., account: Unicredit S.p.A. IBAN IT 45 S 02008 05 365 000 101 395 973 (for transfers from abroad add COD.BIC SWIFT: UNCRITMMORS). Within 7 days of confirmation of execution of the transfer the customer will receive an email confirmation containing the order number and a link for downloading the image.

13. The customer agrees to use the image acquired only for purposes stated in the Declaration of Use form and in any case only for a single use in one publication or product, for a limited period of time, depending on the number of runs/ copies/units, the language and within the territory indicated. Any further use of the images purchased (e.g. for the purpose of their inclusion in a different edition of the publication already published or for the same publication but in another territory) will require a new contract which must be expressly requested from and authorized by Zètema.
14. Zètema grants the customer non-exclusive rights to the use of the image covered by the contract to the extent stated in the Declaration of Use form, in compliance with copyright law as referred to in L. 633/1941 and subsequent amendments (the Copyright Act) and Legislative Decree no. 42/2004 and subsequent amendments the "Code of cultural heritage and landscape."
15. In particular, any reproduction of the acquired image must respect any copyright attached to that image and must cite that it is the Copyright of 'Sovrintendenza di Roma Capitale-Foto in Comune' [The Cultural Heritage Department of the City of Rome Digital Image Archive] and include any other credits related to the image as detailed in the Description (artist's name, workshop or cultural context, title, size, materials and techniques, date, name of the museum, collection and in some cases the name of the photographer). If the customer fails to cite all relevant copyright and credits, or part of them, or cites erroneous credits, then Zètema has the right to request payment from the customer of an additional 100% of the previously agreed cost of the single image by way of liquidated damages under the penalty clause. Zètema nevertheless reserves the right to pursue compensation for any additional damages.
16. In the case of purchases of usage rights for images that are, or represent, works protected under Law 633/1941, it is the exclusive responsibility of the customer to acquire, from the rights holder (author or their legal successors), any rights to reproduce the images acquired. For this purpose, Zètema will disclose relevant information about the ownership of the image in the Description, but the legal obligation remains with the customer to verify this information and to obtain any necessary permissions and pay any fees due to the rights holder.
17. Notwithstanding the above, it is expressly forbidden to use the image acquired for purposes other than those stated and permitted. The purchaser may not assign or transfer the image and rights of use granted by Zètema to a third party and may not modify the acquired image in any way or distribute it on-line or by any means other than those stated and permitted.
18. Notwithstanding the penalties provided for under civil and criminal law in relation to the protection of copyright in cases such as those referred to in Clause 17 above, and without prejudice to the right of Zètema and the Cultural Heritage Department of the City of Rome to request compensation for any additional damages, in such cases Zètema may also terminate the contract under law pursuant to art. 1456 of the Civil Code and apply a penalty proportionate to the seriousness of the violation, for an amount of up to five times the normal price of the licence under which use of the image was made.
19. The customer agrees to send Zètema clips or copies of the electronic or printed publications in which images covered by the contract are reproduced, at least 20 days prior to publication, in order to ensure, also in the interests of the customer, that they have been used properly in accordance with the contractual provisions. The copies should be sent to foto@museiicomuneroma.it or by fax +390682077344. Zètema may require the customer to make any necessary changes in order to ensure that the use of images in publications is in accordance with the provisions in these Terms and Conditions. If this requirement is not satisfied, or if the customer fails to deliver the material within the period prescribed above,

Zètema may terminate the contract under law pursuant to Art. 1456 of the Civil Code and, without prejudice to the right to claim additional damages, may impose a penalty on the customer proportionate to the seriousness of the violation, for an amount of up to five times the normal price of the licence under which use of the image was made.

20. Notwithstanding the requirement to submit copies or clips of publications prior to publication as outlined in the Clause above, the customer is required to send, at their own expense, two copies of the publication made for each image used, to Zètema Progetto Cultura S.r.l. Via Attilio Benigni 59 00156 Rome, within 10 days of production. Failure to do so will give Zètema the right to terminate the contract under law pursuant to Art. 1456 of the Civil Code and, without prejudice to the right to claim additional damages, may impose a penalty on the customer proportionate to the seriousness of the violation, for an amount of up to five times the normal price of the licence under which use of the image was made.
21. The customer agrees to indemnify and hold harmless Zètema, The Cultural Heritage department of the City of Rome and Roma Capitale in respect of all and any damages arising from unlawful use of the images and in particular from any libellous use or use which causes damage to the work of art, the subject of the images, the author or authors or their legal successors, the authors of the photographs or the legitimate owners of copyrights of works of art depicted in them. It is forbidden to use the images in any context that is negative, abusive, derogatory, or otherwise damaging to the image of The Cultural Heritage department of the City of Rome and, as a result, to that of Roma Capitale, for example by using them in connection with pornographic, violent or racist images and/or content, or as vehicles to promote services or products with a negative image, such as, but not limited to, products and/or articles for smokers, alcoholic drinks and spirits, drugs and/or stimulants, places and/or services for adults only, etc.

Reproduction of the acquired image must also be without prejudice to the copyright on the work reproduced.

Zètema is not in any way responsible for the use of images in a way other than those provided in these Terms and Conditions and under law.

In the case of images being used in any way other than those provided by these Terms and Conditions and under the laws applicable to this field, Zètema has the right to terminate the contract pursuant to Art. 1456 of the Civil Code and, notwithstanding the applicability of the penalties provided in these Terms and Conditions, may take further action to obtain compensation for any damage suffered by the Cultural Heritage department of the City of Rome and / or Roma Capitale as a consequence of such use.

22. Consumers, as defined in Clause 2 of these Terms and Conditions, are permitted to withdraw from the contract, pursuant to art. 64 of Legislative Decree no. 206/2005, without penalty and without specifying the reason within 10 (ten) days from the purchase of rights to images, by sending a registered letter to Zètema Progetto Cultura S.r.l. Via Attilio Benigni, 59-00156 - Rome, with the words 'Foto in Comune' written clearly on the envelope. Upon termination, the customer must destroy the images in the manner described in Clause 11 above, and is absolutely forbidden to engage in any further use of those images. Within a period of 60 days Zètema will refund the amount paid, net of bank charges incurred for the relevant transactions. **It should be noted that the right to refund is excluded in cases where the consumer has downloaded and saved the image, pursuant to art. 55 ('Exclusions'), paragraph 2, letter. d) of Legislative Decree no. 206/2005.**

23. Under the provisions of Article, 12, subsection 1, letter d Legislative Decree no. 70/2003, the contracts made between the customer and Zètema under these Terms and Conditions will be filed by Zètema in such a way that customers can access orders made.
24. Zètema reserves the right to change these Terms and Conditions unilaterally, without notice. These changes are effective from the day they are published on the website. Purchase orders made prior to the publication of such changes will continue to be bound by the Terms and Conditions prevailing at the time the contract was made.
25. These Terms and Conditions, as well as the entire contractual relationship between the customer and Zètema, will be governed by Italian law and the parties agree to submit to the jurisdiction of the Italian courts. The Court of Rome is to have exclusive jurisdiction to settle any dispute which may arise out of or in connection with the interpretation, application and / or execution of these Terms and Conditions or otherwise arising from the granting of rights to reproduce images.

I DECLARE THAT I HAVE READ AND UNDERSTOOD THE ABOVE TERMS AND CONDITIONS AND ACCEPT THEM IN FULL

I accept I don't accept

I DECLARE THAT I HAVE READ CAREFULLY AND AGREE THE EFFECTS OF ARTICLES. 3141 AND 1342 OF THE CIVIL CODE AND THE FOLLOWING CLAUSES OF THE TERMS AND CONDITIONS: 12, 15, 18, 19, 20, 21, 22 and 25.

* I agree I do not agree