

## Terms of Use

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10/21/08

Welcome to pixelmemories.com! We hope you enjoy your visit and find our service productive, easy and fun.

Before you begin setting up your account with pixelmemories.com (herein referred to as “we,” “us,” or “pixelmemories.com”), please read the following Terms of Use (“Terms”) carefully. If you (“you”) agree to these terms and wish to use the pixelmemories.com service (“Service”), please click on the “New Account” button. This will constitute a binding agreement between you and pixelmemories.com. Note that any violation of these terms may result in termination of our Service to you.

Pixelmemories.com reserves the right to change these Terms from time to time. Please refer to this site periodically for any changes. We may terminate these Terms, and/or your access to and use of pixelmemories.com at any time for any reason, with or without cause,

### 1. Your Submissions

Under these Terms, you may NOT place any of the following material or obtain any such material using the Service:

- Any threatening, obscene, pornographic or profane material or any other material that could give rise to any civil or criminal liability under applicable law. Pixelmemories.com recommends that you use an “adult-content” warning label when pictures are being shared that include legal adult content.
- Any material that could infringe rights of privacy, publicity or copyrights without the permission of the owner of these rights and the persons (or their parents or legal guardians, where applicable) who are shown in the material.
- Any material sent from an anonymous or false address.

While pixelmemories.com is not responsible for the content of the submissions, we reserve the right to delete, move or edit submissions that it, in its sole discretion, deems abusive, defamatory, obscene or in violation of copyright or trademark laws or otherwise unacceptable. Pixelmemories.com may request confirmation of the copyright or trademark ownership from the submitter.

Pixelmemories.com reserves the right to suspend the shipping of an order before such confirmation is received. If pixelmemories.com does not receive any such confirmation or if there are continued claims of copyright or trademark infringement, pixelmemories.com reserves the right to share certain account information with governmental organizations or other third parties. If you dispute any copyright or trademark infringement claims, we will share with you the contact information of any party claiming any such infringement. In the event of any such dispute, pixelmemories.com reserves the right to suspend the display, viewing or sharing of any submissions until the issue has been resolved. You acknowledge that any submission may be removed, published, copied, modified,

transmitted and displayed by pixelmemoies.com for the purposes of delivering the offered services. In addition, you warrant that all moral rights in any uploaded materials have been waived.

Your physical or electronic sharing of your images constitutes permission for reprinting by the recipient.

Pixelmemoies.com will not be liable for the content of any submission.

### **Copyright Notice**

Pixelmemoies.com is committed to protecting photographers' copyrights. Each image submitter is required by US law to own the right to or to obtain permission to use any image before the image is uploaded or printed at pixelmemoies.com. If you believe that your work has been copied in a way that infringes your copyrights, please send us a notice at the following address requesting that the material be removed, or access to it blocked and provide all relevant details.

Pixelmemoies.com Customer Service  
ATTN: Copyright Protection  
7240 Greenleaf Ave.  
Whittier, CA 90602

Fax: 562-696-0550

Email: [info@pixelmemoies.com](mailto:info@pixelmemoies.com)

## **2. Age Requirements**

You must be at least 13 years of age to use our Service. If you, your parent or legal guardian, have any concerns, please feel free to contact us.

## **3. About Your Account**

### **3a. Access to your account**

Your account with pixelmemoies.com is available for your personal, non-commercial use. Linking directly to images on pixelmemoies.com's servers from external sites is expressly prohibited.

We need to be able to access your account for the following reasons:

- We can remind you of your password in case you forget it; if this becomes necessary, we send an email upon your request to the address from which you opened your account;
- To maintain our Service to you and develop new and useful features and services;
- To follow a court order, subpoena, complaint or a lawful request from governmental authorities;
- We reserve the right to close accounts set up for fraudulent purposes.

### **3b. Account fee**

There is no fee to open a pixelmemoies.com account.

## **4. Cancelling the Service; Discontinuing Inactive Accounts**

Pixelmemoies.com reserves the right to cancel the Service or to discontinue accounts that have been inactive for more than 180 days. We may do so at our discretion after sending an email warning to the

address you used when you set up your account. If you do not respond to the email within 10 days, your account and the images contained in it may be removed.

## **5. Third-party Software**

We may make software from third-party companies available to you. To download such software, you must first agree to the respective software licenses and / or warranties. Each software product is subject to the individual company's terms and conditions, and the agreement will be between you and the respective company.

This means that we do not guarantee that any software you download will be free of any contaminating or destructive code, such as viruses, worms, or Trojan horses. We do not offer any warranty on any third-party software you download using our Service.

## **6. Third-party Links**

We may provide links to third-party sites that might be of interest to you. We have no control over the content or availability of the contents of these sites. It is your responsibility to become familiar with each site's privacy and other policies and terms of service, and to contact that site's webmaster or site administrator with any concerns.

## **7. Copyrighted Material and Software**

All of the information, content, software and materials we offer are protected by copyright and other pertaining laws. You may not copy or distribute such material without the copyright owner's prior written consent. You may use these materials for personal, non-commercial use only, so long as you do not modify the materials or remove any copyright or other proprietary right notices contained in the materials, and provided your use complies with the Doctrine of Fair Use (see [www.copyright.gov](http://www.copyright.gov)).

## **8. Privacy Policy**

When you create an account with [pixelmemoires.com](http://pixelmemoires.com), you need to provide some personal information, such as your name, email address, and mailing address. We protect and use this information as set forth in our Privacy Policy.

## **9. U.S. Government and Restricted Rights**

All materials, information, software and other products supplied by or through the Service are provided with "RESTRICTED RIGHTS." Use, duplication, or disclosure by the U.S. Government is subject to restrictions as set forth in FAR52.22724 and DFAR252.227-7013 et seq. or its successor. Use of any of such by the Government constitutes acknowledgement of our or our suppliers' proprietary rights in them. In the event that the License, or any part thereof, is deemed inconsistent with the minimum rights identified in the Restricted Right provisions, the minimum rights shall prevail.

## **10. Indemnification**

You agree to indemnify, defend and hold harmless us, our officers, directors, employees, agents, licensors, suppliers and any third-party information providers to the Service from and against all losses,

expenses, damages and costs, including reasonable attorney's fees, resulting from any violation of these terms or any activity related to your account (including negligent or wrongful conduct) by you or any other person accessing the Service using your account.

#### **11. Claims**

Any action hereunder must be brought, is at all, within one (1) year from the accrual of the cause of action. The parties agree that any claims hereunder shall be subject to the state and federal laws of the state of California, and hereby consent to jurisdiction and venue in the courts of the Southern District of California located in Santa Ana, CA.

#### **12. Export**

You are responsible for compliance with all local laws, and you are required to comply with U.S. export laws and regulations when you use or export any software or materials provided through the Service.

#### **13. Disclaimer of Warranties**

THE CONTENT AND/OR MATERIALS AVAILABLE THROUGH PIXELMEMORIES.COM'S SITE ARE PROVIDED ON AN "AS IS" AND "AS AVAILABLE" BASIS AND WITHOUT WARRANTIES OF ANY KIND EITHER EXPRESS OR IMPLIED.

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#### **14. Limitation of Liability**

TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, UNDER NO CIRCUMSTANCES SHALL PIXELMEMORIES.COM BE LIABLE FOR ANY DIRECT, INCIDENTAL, SPECIAL OR CONSEQUENTIAL DAMAGES, INCLUDING, BUT NOT LIMITED TO, DAMAGES FOR LOSS OF PROFITS, USE, DATA OR OTHER INTANGIBLES, EVEN IF PIXELMEMORIES.COM HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES, THAT RESULT FROM THE USE OR THE INABILITY TO USE PIXELMEMORIES.COM'S SITE OR SERVICES, FROM ANY CHANGES TO THIS SITE OR ITS SERVICES, OR FROM UNAUTHORIZED ACCESS TO OR ALTERATION OF YOUR TRANSMISSIONS OR DATA. SOME JURISDICTIONS DO NOT ALLOW THE LIMITATION OR EXCLUSION OF INCIDENTAL, CONSEQUENTIAL OR OTHER TYPES OF DAMAGES, SO SOME OF THE ABOVE LIMITATIONS MAY NOT APPLY TO YOU.

## 15. Customer Policy for Idea Submission

Many of our customers are interested in submitting ideas for products and services to be used at pixelmemories.com, either independent of, or in conjunction with, our internally developed concepts. We appreciate our customers' interest in improving our service; however, please note our policy on external idea submission:

- If you submit an unsolicited idea, you represent and warrant that you are the creator and owner of the idea and have the right to assign all your rights, title and interest in the idea to pixelmemories.com.
- Unsolicited ideas submitted to pixelmemories.com or any of its employees automatically become the property of pixelmemories.com and pixelmemories.com shall have the right to resale and to retain all of the income and benefit derived from such unsolicited idea. Pixelmemories.com shall have the right to use, not use, edit or modify, at its sole discretion, your idea, with or without your name and information about you, at its sole discretion. You will not be receiving any compensation, monetary or otherwise, for an unsolicited idea, and you release and shall have no claim against pixelmemories.com or any other person, firm or corporation by reason of any such use of your unsolicited idea.
- By submitting unsolicited ideas to pixelmemories.com, you automatically forfeit your right to the intellectual property of these ideas and irrevocably assign any intellectual property rights in such ideas to pixelmemories.com.

If you intend to own the intellectual property rights of your ideas in any way (patent, trademark, copyright, etc.) please do not submit your concepts or prototype samples to pixelmemories.com or its employees.

Instead:

Send a message to [info@pixelmemories.com](mailto:info@pixelmemories.com) and describe ONLY the general application.

If we think there is opportunity to pursue your idea further, we will contact you. Please note that a proper legal agreement may need to be executed in order to evaluate your concept(s).

## 16. Legal Notices

Under California Civil Code Section 1789.3, you are entitled to the following specific consumer rights information: (a) Contact Information. You can contact us at 7240 Greenleaf Avenue, Whittier, CA 90602, 562-696-0550. (b) Complaints. The procedures that you may follow in order to resolve a complaint regarding this Site are as follows: Contact the California Department of Consumer Affairs to resolve a complaint. The Complaint Assistance Unit of the Division of Consumer Services of the Department of Consumer Affairs may be contacted in writing at 1020 N. Street, #501, Sacramento, California, 95814, or by telephone at (916) 445-1254. You can obtain further information regarding use of this Site by contacting the California Department of Consumer Affairs.

## 17. Miscellaneous

We may assign our rights and responsibilities hereunder without notice to you.

All items purchased through pixelmemories.com are made pursuant to a shipment contract. This means that the risk of loss and title for such items pass to you upon our delivery to our carrier.

When you place an order, pixelmemories.com will not bill until we ship the items ordered. Pixelmemories.com reserves the right to ship partial orders (at no additional cost to you). The portion of the order that is partially shipped may be charged to your credit card at the time of shipment.

If any part of this Agreement is held to be invalid or unenforceable, then the invalid or unenforceable provision will be deemed superseded by a valid, enforceable provision most closely matching the intent of the original provision and the remainder of the Terms will continue in effect.

These Terms constitute the entire agreement between you and us with respect to this Service, and supersede all other communications, written or oral, with regard to the Service.