

Terms and conditions of use of photographer's membership account

The present agreement governs the relationship between SARL PIX IN THE CITY (hereinafter called "**PIX IN THE CITY**") with any capable individual (hereinafter called the "**PHOTOGRAPHER**") using a membership account on pixinthecity.com website (hereinafter called the "**Website**"). PIX IN THE CITY and the PHOTOGRAPHER are hereinafter referred to as the "**Parties**".

The present agreement presents the website's private section terms and conditions of use, granting access to PHOTOGRAPHERS having filled an application formula to create a personal Photographer Account.

the photographer is encouraged to read carefully the following provisions referring to all website's users rights and obligations. Furthermore, The PHOTOGRAPHER is encouraged to print a copy and/or to archive the following agreement.

PIX IN THE CITY provides a free hosting, broadcasting and marketplace service where PHOTOGRAPHERS may display their Work to the attention of the website's public.

PIX IN THE CITY has the right at its sole discretion, any time and without notice to modify or interrupt access to the services

ARTICLE 1 - DEFINITIONS

Within the agreement, words or terms identified by a capital letter have the following meaning, whether they are used under a singular or plural form. Feminine, masculine or neutral genders shall include each other.

- "**Compensation Beneficiaries**": is composed by "PIX IN THE CITY" and its affiliates, as well as its managers, employees, associates or representatives, if "PHOTOGRAPHER" fails to one at least of his declarations, warranties or obligations;
- "**Photographer Account**": refers to PHOTOGRAPHER's Website private section, entitling him to access his Personal Account where are registered his data and Work, consequently to Website acceptance. Access is granted after entering a personal login and password as registered when he filled in the membership application;
- "**Work**": all photographs, shots, illustrations, pictures or any other pictorial or graphical work, uploaded by the "PHOTOGRAPHER" on the Website, through its Personal Account, under a numeric form;

The PHOTOGRAPHER accepts being obliged towards PIX IN THE CITY under the following terms, from the moment his membership application has been forwarded for approval through the Website.

ARTICLE 2 - PHOTOGRAPHER ACCOUNT

2.1 Registration Process

Opening a Photographer Account is only made available to individuals who can enter legally binding contracts under applicable law. PIX IN THE CITY allows any capable individual to apply for a Photographer Account on the Website, once registered as a member as further described below:

- PHOTOGRAPHER fills in an online membership application by providing the following information: a login (user name) and an associated user password (that ought to be strictly personal and confidential), email address (preferably the most frequently looked up one), biographical information (that will be viewed by the public), the PHOTOGRAPHER may submit three (3) Works.
- By checking the box "I have read and agreed the terms and conditions of use", PHOTOGRAPHER :
 - acknowledges being fully informed of the terms and conditions of use, and is bound contractually to respect the following provisions in a whole
 - agrees the creation of his Personal Account may be refused by the Website:
- When PHOTOGRAPHER receives a congratulations email posted by the Website, he may activate his Photographer Account. PHOTOGRAPHER will have to confirm or provide the following information: login (user name) and/or pseudonym, email, last name, name, physical address (street, state, country, zip code), his tax situation (liable to tax or not), choice of payment. In the case, the PHOTOGRAPHER wishes to stay anonymous towards Website's visitors, he may use a pseudonym.

2.2 Photographer Account Use

After the Photographer Account has been activated, the PHOTOGRAPHER is able to access and manage his Personal Account space.

Therefore, PHOTOGRAPHER is able to:

- Submit his Work by uploading it on the Website, in order for PIX IN THE CITY to exploit it according to article 3;
- Retrieve His Work from the Website;
- Monitor and follow up on transactions operated through the Website;
- Request his due payment according to article 6;
- Update his profile information.

PHOTOGRAPHER accompanies each and every Work submitted with a title, a short description, a date, a number of key words to facilitate its exploitation by the PIX IN THE CITY.

PHOTOGRAPHER acknowledges and accepts that PIX IN THE CITY may exercise over PHOTOGRAPHER submitted Work, unilaterally and in its sole discretion, and without enabling PHOTOGRAPHER to complain or oppose himself, a filter selection, or any modifications of the key words.

2.3 Photographer Account suspension and closing

PHOTOGRAPHER may at any time decide to terminate his Photographer Account. To pursue the Account closing, PHOTOGRAPHER will have to notify PIX IN THE CITY by email at the following address: photographes@pixinthecity.com.

Photographer Account will be cancelled and closed under eight (8) working days from the time notification has been received by PIX IN THE CITY. PIX IN THE CITY will be relieved from the payment of all unpaid retributions at the notification date.

PIX IN THE CITY reserves the right, in its sole discretion, to suspend or close a Photographer Account, at any time and for as long as it wishes, and in particular in the not limitedly following cases:

- Failure of PHOTOGRAPHER to conform with these Terms;
- Any wrong or fantasist identification information supplied by PHOTOGRAPHER ; or
- Illegal character among the Works, according to article 6 of law n° 2004-575 dated June 21st, 2004.

2.4 Confidentiality

When creating his membership Account, PHOTOGRAPHER chooses a user name and a user password that will entitle him to login on his Photographer Account homepage and access his Personal Account space.

PHOTOGRAPHER must keep confidential his user name and user password which are strictly personal.

PHOTOGRAPHER accepts and agrees liability over any operation ran through his Photographer Account , particularly all file uploads containing any kind of Work or any comment accompanying a Work.

PHOTOGRAPHER acknowledges and guaranties supplying authentic and sufficient information concerning his identity, even in the case he chooses to keep anonymous or to use a pseudonym, when filling in the membership application.

PHOTOGRAPHER acknowledges and allows PIX IN THE CITY to disclose what is reasonably necessary to comply with Laws and regulations applicable to automated data systems offences. Hence, PIX IN THE CITY holds and keeps all data enabling the identification of PHOTOGRAPHER or anyone that could have supplied illegal contents on the Website through the use of PHOTOGRAPHER personal access codes, when a judicial order requires so according to the Law n° 2004-575 dated June 21st , 2004..

ARTICLE 3 - WORK LICENSING

PHOTOGRAPHER acknowledges and accepts to grant a non exclusive work exploitation licence to PIX IN THE CITY for all Works he uploads on the website.

This Licence is granted for an unlimited period, entitling PIX IN THE CITY to exploit the Work without any geographical borders.

Therefore, the License provides “PIX IN THE CITY” the right to:

- i. Produce and sell Work prints, by all means and on all materials, except for what is provided by paragraph (iii) thereafter;
- ii. Publish and display online the Work uploaded on www.pixinthecity.com website;
- iii. Use the Work to promote PIX IN THE CITY and the Website, including produce prints by all means and on all materials.

In the cases provided by paragraphs (ii) and (iii) above, the license granted by PHOTOGRAPHER to PIX IN THE CITY is considered to be freed from rights.

In the case provided by paragraph (i) above, PIX IN THE CITY agrees to pay PHOTOGRAPHER according to article 6, hereinafter.

Works retrieved by PHOTOGRAPHER shall be made unavailable for sell.

However, PHOTOGRAPHER acknowledges et accepts that PIX IN THE CITY keep the rights to Use the Work to promote PIX IN THE CITY and the Website during six (6) months, starting from the retrieval date.

ARTICLE 4 – INTELLECTUAL PROPERTY

PHOTOGRAPHER declares and guaranties owning all rights, titles and interests over the Work, including all author rights as well as all intellectual property rights.

In case a person (an individual or a legal entity) or a person's goods can be identified within the Work uploaded on the Website, PHOTOGRAPHER must previously obtain from those persons an appropriate authorisation or discharge regarding the rights they own over their goods, image or privacy.

PHOTOGRAPHER acknowledges and accepts full liability consequently to any claim formed by an individual or a legal entity pursuant to the violation of one's image right or property rights caused by the exploitation of the Work by PIX IN THE CITY.

Therefore, PHOTOGRAPHER acknowledges and accepts that PIX IN THE CITY reserves all rights regarding the upload of Work on the Website, if the Work:

- Infringes intellectual property Laws and Regulations;
- Causes injury to an individual or a legal entity by violating one's right to Privacy, image rights, or property rights;
- Constitutes a defamation towards an individual or a legal entity; or,
- Violates any national, European or international legislation.

ARTICLE 5 - INTELLECTUAL PROPERTY RIGHTS MAINTENANCE

PIX IN THE CITY recognizes and accepts PHOTOGRAPHER remains the owner of the Work intellectual property rights, except those transferred to PIX IN THE CITY according to article 2 hereinabove.

As a result, no titles, interests or rights on the Work, except those transferred according to article 2 hereinabove belong to PIX IN THE CITY.

PHOTOGRAPHER retains the right to use, reproduce, represent, post, adapt and display his Work as full part of his professional portfolio, and to exploit his work by all means and on all materials and all size.

ARTICLE 6 - PAYMENT

All transactions made through PIX IN THE CITY Website are registered on PHOTOGRAPHER's Photographer Account according to article 3.

Every transaction will give rise to payment under the form of author rights such as described in the annex..

Payment will occur by check- written to PHOTOGRAPHER, sent by mail to the address mentioned in his membership application.

When PHOTOGRAPHER is not a French resident, and in that case only, payment will be wired to a paypal® account or to the bank account specified in his membership application. All wired payment fees and commissions will be bared by PHOTOGRAPHER.

PHOTOGRAPHER acknowledges and accepts that payment will become due for payment once total amount owed exceeds thirty (30 €) euros.

All Taxes, fees and commissions eventually due by PHOTOGRAPHER regarding payment of his author rights will be exclusively bared by him. PIX IN THE CITY declines any kind of responsibility regarding PHOTOGRAPHER tax issues.

ARTICLE 7 - DISCLAIMER OF WARRANTEE

PHOTOGRAPHER warrants PIX IN THE CITY he owns and/ or controls all of the rights over the Works uploaded on the Website, hence PIX IN THE CITY is free to use the Work according to article 3.

PHOTOGRAPHER warrants PIX IN THE CITY against all third parties claims, actions, oppositions, and disclaimers, direct or indirect, incidental, punitive and consequential damages in case a Work offences or violates

one's rights. PHOTOGRAPHER acknowledges and accepts being bound to bear the entire expenses resulting from the breach of this warrantee.

ARTICLE 8 - LIABILITY LIMITATION

PHOTOGRAPHER agrees that neither PIX IN THE CITY nor its affiliates, nor any of their respective officers, directors, employees, owners, agents, representatives, and partners shall be liable for any damages, whether direct, incidental, indirect or consequential, arising from any use of the Work.

PIX IN THE CITY shall have its liability foreseen only if what gave rise to the breach can be attributed to the Website.

Nevertheless, PIX IN THE CITY shall not see its liability foreseen for any internet disturbance or maintenance running of the Website, nor for any interruption, mistake or omission concerning available information published on or through the Website causing a damage consequently to a third party or Hackers intrusion in Website secured files.

PIX IN THE CITY shall not be found liable for any use or misuse of the Work on or through the Website by the users, the customers, commercial partners or third parties.

PHOTOGRAPHER acknowledges and accepts being liable for any mistaking or false information given while applying to the Website.

PHOTOGRAPHER agrees to indemnify for no limitative reason the true owner of the rights or its assignees consequently to the reproduction, or representation or incorporation of a Work appearing under PHOTOGRAPHER name on the Website, or for any rights infringements caused to a person or its goods on or through the Website.

PIX IN THE CITY holds no obligation regarding the Work exploitation through the Website.

PHOTOGRAPHER agrees to be the only liable party for any link posted on or through the Website granting access to illegal or irregular content.

In compliance with Law n° 2004-575 dated June 21st, 2004, PIX IN THE CITY is not subject to any general surveillance duty over Photographer Account or Personal Account, neither over the Work the latter uploads, and has no general investigating duty over illegal activities resulting from random facts or circumstances..

ARTICLE 9 - INDEMNITY

PHOTOGRAPHER agrees to indemnify, defend and to discharge from any kind of liability PIX IN THE CITY, its affiliates, nor any of their respective officers, directors, employees, owners, agents, representatives, and partners from and against all claims, expenses (including attorney fees and court costs), or other liability arising from PHOTOGRAPHER breach to any of the enclosed statements, warrantees or obligations, and from any and all uses of the Work on or through the Website including without limitation, all claim or actions based on:

- The violation of one's intellectual property rights,
- Defamation,
- Breach of one's right of privacy including without limitation, blurring, alteration or distortion of any Work, whether or not intentional,
- Any violation to a national, European or international Law or Treaty.

PHOTOGRAPHER agrees PIX IN THE CITY has, in its sole discretion, the right to control the defense of any claim, action or matter subject to indemnification by requiring the help of its own chosen counsel, at PHOTOGRAPHER expenses.

PHOTOGRAPHER agrees to cooperate in good faith with PIX IN THE CITY if any claim, action or matter arises.

ARTICLE 10 - TERM

The terms and provisions hereby enclosed will bound PHOTOGRAPHER till Photographer Account is closed, and shall continue to govern either PIX IN THE CITY or PHOTOGRAPHER rights and obligations according to this agreement. All claim, action or matter arising from the use of a Work prior to Photographer Account closing after it has been closed shall be governed by these terms and provisions

PHOTOGRAPHER may at any time terminate this agreement by closing his Photographer Account, in application of article 2.3.

All uploaded Works shall be made unavailable for sell.

PHOTOGRAPHER acknowledges et accepts that PIX IN THE CITY keep the rights to Use the Works to promote PIX IN THE CITY and the Website during six (6) months, starting from the termination.

PIX IN THE CITY reserves the right at any time, in its sole discretion, without prejudice of damages due by PHOTOGRAPHER, to terminate this agreement, without justification.

ARTICLE 11 - MODIFICATION

PIX IN THE CITY may unilaterally perform any non-substantial changes, modifications of this agreement and will inform PHOTOGRAPHER.

Any substantial modification of this agreement will be notified to PHOTOGRAPHER by email or publication on Photographer Account page, for acknowledgment and acceptance of the new terms.

If PHOTOGRAPHER does not agree to be bound by the new terms and conditions, his Photographer Account will be suspended.

ARTICLE 12 - PIX IN THE CITY INTELLECTUAL PROPERTY RIGHTS

PIX IN THE CITY Website equipped with a protected software entitles PHOTOGRAPHER to use a number of applications. The use of this software does not grant any rights to the user over: the software, the compiled databases of the Works supplied by the member PHOTOGRAPHERS, catch lines, logo, trademark, pattern and design, domain name.

ARTICLE 13 - LINKS

PHOTOGRAPHER agrees on PIX IN THE CITY link policy. PHOTOGRAPHER shall be held liable for all links posted through his Personal Account space leading to illegal or irregular contents, or any contents prejudicing third parties rights. Nevertheless, PHOTOGRAPHER may indicate a link towards other of his personal pages, blogs, or Website.

However, PIX IN THE CITY reserves the right to post links in relation with its business.

ARTICLE 14 - PERSONAL DATA PROTECTION

PIX IN THE CITY process personal data according to CNIL's authorization n° 1249489 delivered on August 27, 2007.

In compliance with January 6th, 1978 Law, PHOTOGRAPHER has a right to access, modify or delete his personal data.

PHOTOGRAPHER may request disclosure of his personal data or oppose himself the processing of his personal data by notifying PIX IN THE CITY at either contact@pixinthecity.com or at the following address: PIX IN THE CITY, Le Village d'Artisans, ZA de la Porte Rouge, 27150 Etrépany.

PIX IN THE CITY processes all personal data submitted through the membership application in order to check the information is true, in case evidence is needed in litigation.

PIX IN THE CITY shall by law keep all information regarding personal data as long as this agreement is binding and until legal deadlines expire.

ARTICLE 15 – MISCELLANEOUS

15.1 Invalidity

If any term or provision of this agreement is invalid, illegal, unenforceable or contradictory with any court decision become definitive, all other terms and conditions of this agreement shall nevertheless remain in full force and effect.

15.2 Transfer, Merger or Acquisition

PIX IN THE CITY may transfer in a whole or partially, its assets, services or rights consequently to a merger, demerger, partial business transfer, to a transferee company pursuant to PIX IN THE CITY continuous business development, without obtaining PHOTOGRAPHER consent.

Nevertheless, PIX IN THE CITY shall notify PHOTOGRAPHER of successors or assigns details by sending an email or by a publication on Photographer Account homepage, specifying the nature and the assets transferred.

15.3 Applicable Law and Jurisdiction

These terms and conditions are governed by French law

Any legal suit, action or proceeding arising from the interpretation, the implementation or termination of these terms and conditions, introduced within the legal term of limitation shall in all cases be instituted in the jurisdiction of The

Tribunal de Commerce of Evreux, only to rule over the French version, being the only one to be recognized as enforceable.

Parties who wish to settle their dispute through conciliation may contractually decide so. During this period, Parties shall decide how services supplied by PIX IN THE CITY shall continue.

All claims ought to be sent to PIX IN THE CITY, Le Village d'Artisans – ZA de la Porte Rouge, 27150 ETREPAGNY, France.

ANNEX: PAYMENT TERMS

Starting 14/04/2008

Gross payment for each print sold (without tax and social security contributions according to the applicable legislation)

- formats: 24 x 24 cm, 24 x 32 cm, 24 x 36 cm : 3 € per copy.
- formats: 30 cm x 30 cm, 30 x 40 cm, 30 x 45 cm : 3 € per copy.
- formats: 40 cm x 40 cm, 40 x 53 cm, 40 x 60 cm : 5 € per copy.
- formats: 60 cm x 60 cm, 60 x 80 cm, 60 x 90 cm : 10 € per copy.
- formats: 80 cm x 80 cm, 80 x 106 cm, 80 x 120 cm : 12 € per copy.