



FLYINGGRAPHICS

www.flyinggraphics.com

**Terms & Conditions of
contributing to PIXAERO**

The following terms and conditions is a legally binding, non-exclusive agreement between you and Flyinggraphics. Carefully read and be sure you understand it fully. Terms & conditions may be amended from time to time. They describe and controls your legal relationship with Flyinggraphics, the rights you are granting to Flyinggraphics in any photographs and what uses Flyinggraphics may make of your pictures. These terms & conditions also explain your obligations to Flyinggraphics and Flyinggraphics's obligations to you; including the obligation to pay you as hereinafter set forth.

Flyinggraphics reserves the right to modify these terms at any time and to notify you of the modifications thirty (30) days prior to the effective date by an announcement emailed to you. You agree to be bound by all such changes. if you do not agree with any of the changes please request that Flyinggraphics remove all your images from the site.

1. Overview

1.1 By submitting any pictures to Flyinggraphics, you hereby grant Flyinggraphics a global, non-exclusive right and license to reproduce, prepare derivative works incorporating, publicly display, market, and sell any pictures uploaded by you and accepted by Flyinggraphics, until this Agreement is terminated as herein provided.

1.2 You further grant Flyinggraphics a global, non-exclusive right to use your name and pictures in connection with Flyinggraphics's marketing and promotional activities without the payment of any compensation to you. Flyinggraphics, in the exercise of its discretion, may refrain from any or all of the foregoing without any liability to you.

1.3 You also give permission to Flyinggraphics to add, modify or remove information related to your pictures in order to manage and sell such pictures.

2. Ownership of pictures

2.1 The copyrights in and to all pictures remain with the owner of such copyrights. Nothing contained herein shall be construed to transfer any copyrights to Flyinggraphics.

3. Accounts

3.1 Flyinggraphics has the right to refuse to establish an account or to close any existing account, for fraud, intellectual property infringement, violation of a third party's rights including those of privacy or publicity, artificially inflating purchases, submission of material that is obscene in nature, violent or that might be construed as defamatory, failure to comply with Flyinggraphics's guidelines as may be amended from time to time, for any breach of the terms of this or any

other agreement that you have with Flyinggraphics, or for convenience.

3.2 Flyinggraphics will terminate your account no later than ninety (90) days following its receipt of a written request from you. For the sake of clarity, before the termination of your account is made effective by Flyinggraphics, your pictures will remain available for sale to Flyinggraphics customers. Notwithstanding the foregoing, in the event that Flyinggraphics materially modifies the terms & conditions and does not provide you with thirty (30) days prior notice, you may terminate your account within thirty (30) days of the effective date of such modifications.

3.3 You may request that your pictures are removed from your account at any time, provided that in any ninety (90) day period, If your account is terminated for any reason you must obtain written authorisation from Flyinggraphics prior to establishing another account. You may not have more than one active contributor account at any time without the written consent of Flyinggraphics in each instance. If such consent is granted, you may not submit identical pictures to more than one account.

4. Pictures

4.1 Flyinggraphics has the right to refuse to accept or to remove pictures from the Flyinggraphics Website for any reason. Pictures will be removed if Flyinggraphics believes that the pictures will subject Flyinggraphics or any of its officers, managers, directors or employees to legal action or if the picture violates the terms & conditions.

4.2 Licenses issued by Flyinggraphics for any pictures that is later removed from the Flyinggraphics website will remain in full force and effect. Flyinggraphics can still grant licences on images when proper negotiations have started with a customer prior to deletion. Flyinggraphics may advertise and/or market your pictures on social media platforms including Facebook, Twitter, and similar sites and the applications related thereto.

5. Confidentiality

5.1 By submitting any pictures to Flyinggraphics, you acknowledge that you will acquire certain confidential information, including but not limited to royalty rates, royalty payments and earnings data (collectively, "Confidential Information").

5.2 Confidential Information shall not be disclosed to any third party other than representatives, agents, accountants, auditors and advisors with a bona fide need to know, who shall first agree to keep the terms confidential.

6. Compensation

6.1 Flyinggraphics shall pay you a royalty for each



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unique purchase of pictures for which Flyinggraphics receives payment.

6.2 Flyinggraphics is to set and agree prices at its own discretion. The current royalty rate is set in the Contributors Guide. Statements will be issued monthly, on or about the 15th day of each month for the previous month's purchases and royalty balance will be paid on reaching £100.

6.3 If Flyinggraphics makes an overpayment of royalties or other compensation to you for any reason, Flyinggraphics shall have the right to deduct the amount of such overpayment from your accrued royalties or to demand the immediate repayment of such overpaid royalties or other compensation.

7. Income tax and Self billing for UK VAT registered Contributors

7.1 Contributors are responsible for paying tax on any income they receive through contributing to Flyinggraphics. Go to www.hmrc.gov.uk for more information.

7.2 You must inform Flyinggraphics whether you are registered for VAT and must inform Flyinggraphics if at any time the position changes including any change in your VAT registered status, a change of your VAT number or if you sell all or part of your business.

7.3 Where you are UK VAT registered, you agree that Flyinggraphics will self bill you. Flyinggraphics will issue self-billed invoices to you for all Taxable Supplies made to Flyinggraphics by you (Taxable Supplies is defined by HM Customs & Excise as all goods and services which are VAT rated). The self-billed invoices will include your name, address and VAT number, together with all other details that constitute a full VAT invoice.

7.4 Flyinggraphics will agree new terms for self billing with you if the self-billed invoices are outsourced to a third party.

7.5 If it is subsequently found that you were not VAT registered or have failed to provide accurate and current information relating to your VAT status, then you shall immediately on demand by Flyinggraphics repay to Flyinggraphics any VAT paid over incorrectly (together with any associated interest and penalties incurred by Flyinggraphics). Flyinggraphics may recover by debiting your account any money due to Flyinggraphics in respect of tax and any associated interest or penalties.

8. Flyinggraphics and PIXAERO Trademarks

8.1 For the purposes of these terms & conditions, the term, "Trademark(s)" means all common law or registered trademarks, logos, service marks, trade names, Internet domain names, or other indications of origin now or in the future used by Flyinggraphics and PIXAERO. Nothing contained herein grants or

shall be construed to grant you any rights to use any Flyinggraphics and PIXAERO Trademarks.

8.2 You agree that you will not use Flyinggraphics's and PIXAERO's Trademarks in any manner that might tarnish, disparage, or reflect adversely on such Trademarks or Flyinggraphics and PIXAERO. Nor will you contest or otherwise challenge (e.g., in any legal action or otherwise), or assist or encourage any other person or entity to contest or challenge, the validity of any of Flyinggraphics and PIXAERO Trademarks or the Trademark rights claimed by Flyinggraphics and PIXAERO.

8.3 You agree that you will not use any Flyinggraphics and PIXAERO Trademarks or any variant thereof (including misspellings) as a domain name or as part of a domain name regardless of the top-level domain, as part of a blog name or social media handle or channel, or as a metatag, keyword, or any other type of programming code or data.

8.4 You may not at any time, adopt or use, without Flyinggraphics's prior written consent any word or mark which is similar to or likely to be confused with Flyinggraphics 's Trademarks.

8.5 The look and feel of the Flyinggraphics websites, including all page headers, custom graphics, button icons, and scripts, is the trade dress and/or trademark or service mark of Flyinggraphics and may not be copied, imitated or used, in whole or in part, without the prior written consent of Flyinggraphics.

8.6 You may not use Flyinggraphics and PIXAERO Trademarks, logos, images or other proprietary graphics of Flyinggraphics to link to the Flyinggraphics websites without the prior written consent of Flyinggraphics.

8.7 You may not frame or hotlink to the Flyinggraphics Websites or to any item of content other than your own without the prior written consent of Flyinggraphics. All rights in and to Flyinggraphics's and PIXAERO Trademarks not expressly granted to you hereunder are reserved by Flyinggraphics and PIXAERO.

9. Submission Guidelines

9.1 You agree to follow Flyinggraphics 's Contributor Guidelines. The submission of pictures that do not adhere to Flyinggraphics's Contributor Guidelines may result in the termination of your Flyinggraphics account.

9.2 The terms of Flyinggraphics's Contributor Guidelines are deemed incorporated into and made a part of the terms & conditioned by this reference.

10. Copyright Infringement Claims

10.1 While Flyinggraphics takes commercially reasonable steps to ensure that the rights of its Contributors are not violated by customers or other parties, Flyinggraphics has no obligation to pursue legal action against any alleged infringer of any



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of your rights in and to any pictures. You hereby grant Flyinggraphics the right and authority to take such steps as Flyinggraphics deems commercially reasonable to protect Flyinggraphics 's rights to your pictures. Flyinggraphics recommends that you register all of your pictures for copyright protection, as such registration is generally a prerequisite to commencing an action for copyright infringement.

11. Representations and Warranties

11.1 You represent and warrant that:

you have the full right, power and authority to enter into this agreement and to fully perform all of your obligations hereunder;

11.2 you are under no legal disability or contractual restriction that prevents you from entering into this agreement;

11.3 your pictures and all parts thereof are owned and/or controlled by you, unencumbered and original works and are capable of copyright protection in all countries where copyright or similar protection is available;

11.4 your pictures are neither obscene nor defamatory and does not infringe the copyright or any other rights of any third party, including, without limitation, trademark rights and the rights of privacy and publicity;

11.5 there is no suit action or claim or other legal or administrative proceeding now pending or threatened which might directly or indirectly affect your pictures or which might in any way impair the rights granted by you hereunder;

11.6 and you will not transmit unsolicited emails or engage in so-called "spamming" to publicise or promote your relationship with Flyinggraphics or the sale of your pictures - nor will you advertise or otherwise publicise your relationship with Flyinggraphics, nor will you use Flyinggraphics's Trademarks through the use of search engine advertising and/or marketing. You acknowledge that such advertising might infringe on the intellectual property rights of Flyinggraphics and/or third parties. In addition to its other rights and/or remedies under the terms & conditions, Flyinggraphics shall be under no obligation to pay you any referral fees or other compensation if you violate the terms of this subparagraph.

11.7 You have given full and accurate information at registration including your full legal name, address and payment details and you will keep this information up to date at all times

11.8 Where you have indicated that a Model release, Property release or any other release of a third party right including without limitation any copyright, trade mark or other intellectual property right, is available. the release must (a) be legally binding and (b) (except

as otherwise notified to Flyinggraphics via the website or, with the agreement of Flyinggraphics, via email) authorise all uses of the Images anywhere in the world including without limitation uses in relation to sensitive issues; you must make the release(s) available to Flyinggraphics if so requested.

12. Flyinggraphics represents and warrants that:

12.1 it has the power and authority to enter into this agreement and to fully perform all of its obligations hereunder; and

12.2 upon making or learning of any claim that is inconsistent with any of the warranties or representations made by you, Flyinggraphics shall send you written notice of such claim, using the email address provided by you to Flyinggraphics, specifying the details of the claim as then known to Flyinggraphics. Pending the determination of such claim, Flyinggraphics may withhold from royalties and/or other compensation due to you hereunder, such sums as are reasonably related to the probable value of the claim as determined by Flyinggraphics. You will cooperate fully with Flyinggraphics in the defence of any such claims. You may participate in the defence of any claim through counsel of your selection at your own expense.

13. Loss of Images or Failure of System

13.1 Due to the nature of server provision, downtime and lost transmissions may occur. In recognition of this it is agreed that Flyinggraphics shall have no liability to any Contributor or Copyright Owner for:

13.2 the loss of any Image or for any deterioration or damage to any Image on the System; or

13.3 any failure of the System which causes lost Licence Fees.

13.4 Contributors shall be responsible for maintaining original and digital back-up copies of all Images submitted to Flyinggraphics and will provide replacement digital copies to Flyinggraphics on request at any time.

13.5 Where Contributors make a submission by disc or any physical medium, Flyinggraphics shall be under no obligation to return such disc or other property.

13.6 Flyinggraphics is entitled to amend the System or remove an online upload facility at any time.

14. Indemnification

14.1 You agree to indemnify and hold Flyinggraphics harmless from and against any and all claims, losses, damages, costs and expenses (including reasonable attorneys' fees and disbursements) arising out of any breach or claimed breach of any of your representations or warranties or any of your obligations under the terms and conditions. You will only be liable for any incidental, consequential, or



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special damages in the case of third party claims. This paragraph will remain in force after the termination of this Contract.

14.2 Flyinggraphics shall indemnify and hold you harmless from and against any and all claims, losses, damages, costs and expenses (including reasonable attorneys' fees and disbursements) arising out of any breach or claimed breach of any of Flyinggraphics' representations or warranties or any of Flyinggraphics's obligations pursuant to the terms & conditions, provided that, except in the case of third party claims,

14.3 Flyinggraphics shall not be liable for any incidental, consequential, or special damages. If Flyinggraphics is the indemnifying party, it shall defend such claims, control litigation, and settle claims in its sole discretion. If a settlement creates a financial obligation for you, it shall require your written consent, which will not be unreasonably withheld or delayed by you. If you are the indemnifying party, Flyinggraphics shall have the right but not the obligation to assume control of any litigation.

14.4 When indemnification is sought due to a legal claim by a third party, the indemnified party shall: promptly notify the indemnifying party of the claim. If the indemnified party does not notify the indemnifying party, the indemnifying party must still meet its indemnification obligations under the terms & conditions, unless the failure to notify causes material prejudice to the indemnifying party; and

14.5 give the indemnifying party the opportunity to

defend the claim with counsel reasonably acceptable to the indemnified party. Counsel that is acceptable to indemnifying party's errors and omissions insurance carrier shall be deemed to be acceptable to indemnified party. The indemnified party agrees to cooperate with the indemnifying party in the defense of any claim, at the indemnified party's expense. If for any reason the indemnifying party does not elect to or fails to defend a claim, the indemnified party may do so at the indemnifying party's sole expense.

15. Miscellaneous

15.1 If any part of the terms & conditions is held void or unenforceable, it shall not affect the validity of the balance of the agreement. The terms & conditions shall be binding upon and shall inure to the benefit of each party and their respective legal representatives, successors in interest and permitted assigns.

15.2 Flyinggraphics will not be liable for any damages, including actual, indirect, special, or consequential damages arising from the submission or use of your pictures or the termination of your Contributor Account.

By submitting any pictures to Flyinggraphics you agree to be bound by these terms and conditions and the terms and conditions of Flyinggraphics's privacy statement (which by this reference is deemed incorporated herein), with the same force and effect as if you signed such documents by hand.



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