

# Mostphotos - Terms and Conditions

This Service is owned and operated by Mostphotos AB, Box 16083, 103 22, Stockholm, SWEDEN ("Mostphotos"). This Agreement governs the terms concerning Mostphotos service(s) (the "Service"), by using this Service you agree to these terms and conditions ("This Agreement"). This Agreement is also a legally binding agreement between the Users of the Service. If you do not accept and abide This Agreement you should not access or use the Service. Mostphotos may, at any time and of any reason, amend This Agreement by publishing the amended terms of the Service. All amended terms shall automatically be effective thirty (30) days after they are initially published.

## **1 DEFINITIONS AND INTERPRETATION**

- 1.1 "User" means, in This Agreement, a private individual or organization using the Service.
- 1.2 "Content" means, in This Agreement, all types of images, videos and other material and information that a User uploads to the Service.
- 1.3 "Editorial Content" means, in This Agreement, Content which the User who published the Content does not have the required Consent (as defined in section 14.4 in this Agreement) to. This Content may not be used for commercial purposes but can for example be used in news contexts.
- 1.4 "Commercial Content" means, in This Agreement, all Content except Editorial Content.
- 1.5 "Buyer" means, in This Agreement, a User buying a license to use Content through the Service.
- 1.6 "Contributor" means, in This Agreement, a private individual or organization who/which uploads Content or Editorial Content to the Service.

## **2 THE SCOPE OF THE SERVICE**

- 2.1 The Service consists of a marketplace where Users can transfer/buy a license to use Contributor's Content.

## **3 INTELLECTUAL PROPERTY RIGHTS**

- 3.1 The Content including, without limitations, all intellectual property rights in the same, shall remain the sole and exclusive property of the Contributor who uploaded it.
- 3.2 Contributors are personally responsible for acquiring all the rights of use, operation, reproduction, representation, adaptation and circulation and, more generally, all the intellectual property rights relating to the elements or material of the Content

necessary. Contributors are prohibited from uploading Content or other material that infringe third party's intellectual property rights, to the Service. Contributors explicitly warrant that Mostphotos in relation to the Content, won't need additional licenses or additional consent from third parties.

- 3.3 By uploading Content to the Service Contributors explicitly warrant that they have received proper consent, in relation to participation in use for, including but not limited to (i) advertising, (ii) promotional use and (iii) other commercial use, from any and all individual(s) depicted in said Content. Contributors are obliged to provide written evidence of such consent. Mostphotos retains the right to request additional consent from any and all individuals depicted in said Commercial Content.
- 3.4 By uploading Commercial Content to the Service, that includes any work of art, including but not limited to (i) paintings, (ii) sculptures, (iii) architectural manifestations, (iv) private property and (v) any other work of art that is subject to copyright legislation, Contributors explicitly warrant that they have received proper consent from the rightful copyright holders.
- 3.5 The Buyer is advised to request additional consent in relation to Commercial Content that clearly includes a motif that is subject, including but not limited to (i) copyright, (ii) trademark, (iii) private property and (iv) other legal rights that might limit the use of the Content, before using the Content for commercial purposes.
- 3.6 Notwithstanding the previous paragraphs, Mostphotos grant the Buyer of the Contributor's uploaded Content a non-exclusive, worldwide license to use the Contributor's Content in accordance with section 5 in This Agreement.

#### **4 CODE OF CONDUCT**

- 4.1 Use the Service with common sense. E.g. do not disgrace or in any other way defame people visible in images.
- 4.2 Users may use the Service for lawful purposes only. Contributors agree that when uploading Content to or when communicating via the Service they may not use the Service to post, transmit or otherwise distribute illegal material.
- 4.3 Users agree to the following:
  - a) Users shall not defame abuse, harass, threaten or otherwise violate the legal rights of others or of any third party including Mostphotos,

- b) Users shall not in any manner publish or post any inappropriate, defamatory, infringing, obscene, pornographic, racist, terrorist, politically slanted, indecent or unlawful topic, name, material or information,
- c) Users shall not contribute to destructive activities such as dissemination of viruses, spam or any other activity that might harm the Service or other Users in any way,
- d) Contributors shall not publish or otherwise make available, Commercial Content that contain images, photographs or other material protected by intellectual property laws unless the Contributor owns or controls the rights thereto or has received all necessary consent to do the same,
- e) Contributors shall not falsify or delete any information, such as author attributions, legal or other proper notices or proprietary designations or labels of the origin or other material contained in Content,
- f) Buyers shall not download any Content which they know, or reasonably should know, cannot be legally reproduced, displayed, performed, and/or distributed in such manner that results in copyright infringement,

## **5 THE CONTENT**

- 5.1 Mostphotos have the right to, at any time and without notice, delete, move or edit any Content uploaded to the Service.
- 5.2 When Contributors upload Content to the Service, they grant Mostphotos a non-exclusive, royalty-free, transferable and worldwide license to use, reproduce, distribute and display the Uploaded Content. The license is granted until the Contributor chooses to remove Content from the Service and a commercially reasonable time passes.
- 5.3 Contributors grant Mostphotos a license to, to the Buyer, sell a non-exclusive, transferable and worldwide license to use Commercial Content for any purpose, including the right to modify, reproduce, publish, display and sub-license the Content and create derivative works thereof pursuant to the conditions stated in sections 6 – 8.
- 5.4 Contributors grant Mostphotos a license to, to the Buyer, sell a non-exclusive, transferable and worldwide license to use Editorial Content for any purpose, including the right to reproduce, publish, display and sub-license the Content and create derivative works thereof pursuant to the conditions stated in section 9.

- 5.5 Sensitive Content may require disclaimers. When Buyers use Content that features models or property in connection with a situation that would be deemed unduly controversial to a reasonable person (for example sexually transmitted diseases, mental illness or political opinions), it must be made clear that: (1) that the content is being used for illustrative purposes only and (2) any person depicted in the content is a model. For example stating: "Stock photo. Posed by model."
- 5.6 Regardless of any other provisions in this Agreement the following use of Content by the Buyer shall always be considered prohibited:
- a) any use in breach of applicable law, including but not limited to (i) incitement to racial hatred, (ii) child pornography, (iii) slander, (iv) insult, (v) instigation of rebellion, (vi) unlawful description of violence;
  - b) any use that may in any other way be conceived as (i) threatening, (ii) insulting, (iii) racist, (iv) vulgar, (v) indecent, (vi) sexist or (vii) use which violates the personal sphere or dignity of a private individual, including but not limited to advertisements in relation to dating, pornography or (viii) any other use that Mostphotos, in its own discretion, views as harmful to either the subject of the Content or the reputation and brand of Mostphotos;
  - c) any use that constitutes infringement of a third party (i) trademark, (ii) copyright, (iii) personal data legislation or (vi) any other legal right.

## **6 ROYALTY-FREE STANDARD LICENSE**

- 6.1 "Permitted Uses" of the Commercial Content are:
- a) advertising and promotional projects, including printed materials, product packaging, presentations, film and video presentations, commercials, catalogues, brochures, promotional greeting cards and promotional postcards (i.e. not for resale or license);
  - b) entertainment applications, such as books, magazines, newspapers, editorials, newsletters, and video, broadcast and theatrical presentations;
  - c) on-line or electronic publications and web sites, such as web pages, web services, mobile applications, blogs and social media
  - d) prints, posters (i.e. a hardcopy) and other reproductions for personal use or promotional purposes specified in (a) above;

- e) edit the Commercial Content as long as it's done in accordance with the Code of Conduct (it is i.e. not Permitted Use to add an inappropriate speech bubble, etc.).
- 6.2 Buyers are only allowed to use the Commercial Content sold to them with a Royalty Free Standard License through the Service for those advertising, promotional and other specified purposes that are Permitted Uses (as defined in section 6.1 in This Agreement). Buyers may use the Commercial Content in countless editions, infinitely larger prints and also unlimited in future projects as long as the use is regarded as Permitted Use. Any use of the Commercial Content that is not a Permitted Use constitutes infringement of copyright or other intellectual property rights of Mostphotos and the Contributor who owns the Commercial Content.
- 6.3 Buyers may purchase Commercial Content for a third party, for use by said third party. This does not, however constitute a right for the Buyer to re-use this specific license outside the scope of its relation with the specific third party. A Buyer who purchases Commercial Content for a third party has an obligation to keep a written record of its relation to a third party and to present such record to Mostphotos upon request. The record shall include the name of the said third person, the date(s) on which the Commercial Content was used and the image number of the Commercial Content.
- 6.4 Unless a Buyer has purchased an Extended License or an Unlimited License as described below, the Buyer may not do anything with the Commercial Content that is not expressly permitted in the preceding paragraphs. For greater certainty, the Buyer may not:

*Use the Commercial Content in any posters, postcards, mugs, t-shirts (printed on paper, canvas or any other media) or other items for resale, license or other distribution for profit; or use the Commercial Content as, or as a part of, a logotype.*

## **7 ROYALTY-FREE EXTENDED LICENSE**

- 7.1 If Buyers purchase Commercial Content with a Royalty Free Extended License, Buyers will, in addition to the Permitted Uses in section 6.1 in This Agreement have the right to print the Commercial Content on maximum one thousand (1 000) products for resale or distribution for profit, such as posters, postcards, mugs and T-shirts.

## **8 ROYALTY-FREE UNLIMITED LICENSE**

- 8.1 If Buyers purchase Commercial Content with a Royalty Free Unlimited License, Buyers will, in addition to the rights in section 6.1 in This Agreement have the right to print

the Commercial Content on unlimited numbers products for resale or distribution for profit, such as posters, postcards, mugs and T-shirts and also use the Commercial Content as, or as a part of, a logotype.

## **9 ROYALTY-FREE EDITORIAL LICENSE**

- 9.1 The Buyer of Editorial Content can use it solely for news-publishing to an unlimited extent.
- 9.2 Editorial Content may not be modified or otherwise altered from its original state, with the exception of cropping the Editorial Content in such a way that it does not materially change the original state.
- 9.3 Mostphotos shall always be credited by the Buyer when the Buyer uses Editorial Content. If the use of the Editorial Content is under a circumstance where hyperlinks are technically possible, Buyers shall provide a link to [www.mostphotos.com](http://www.mostphotos.com). Under other circumstances Buyers shall always provide due credit for their use of Editorial Content. This shall be in the form of "Mostphotos.com" or "Name of Artist/Mostphotos.com".
- 9.4 In the event that an image is used in connection with a film, television broadcast, documentary or other audio-video or multimedia project, Buyers shall use reasonable commercial, organizational and technical efforts to assure that Mostphotos and the Contributor who uploaded the Editorial Content get due credit in the form specified above.
- 9.5 Unintentional breach of the provisions stated in 9.3-9.4 do not constitute a breach of This Agreement granted that the Buyer remedies the breach upon request from Mostphotos.
- 9.6 Buyers may purchase Editorial Content for a third party, for use by said third party. This does not, however constitute a right for the Buyer to re-use this specific license outside the scope of its relation with the specific third party. A Buyer who purchases Editorial Content for a third party has an obligation to keep a written record of its relation to a third party and to present such record to Mostphotos upon request. The record shall include the name of the said third person, the date(s) on which the Editorial Content was used and the image number of the Editorial Content.

## **10 LIMITATION OF LIABILITY**

- 10.1 Mostphotos or its service providers shall not be responsible or liable for any software, computer viruses or other harmful files or material that is downloaded or otherwise obtained through the use of the Service. Users use the Service at their own risk and Users will be solely responsible for any damage to their computer system or loss of data that results from the use of the Service.
- 10.2 Mostphotos, or its service providers, do not take responsibility regarding intellectual property rights, relations between Users or any other responsibilities or liabilities of any kind except from what is expressly stated in This Agreement. Mostphotos does not explicitly guarantee that the Contributor who uploads Content to the Service has the proper Consent to grant any licenses such that the Content does not infringe any third party rights. Any Buyer is advised to use Content with care and to avoid using Content that could reasonably result in infringements in third party rights, such as images of, or including, trademarks. If Buyers are unsure whether the Content infringes third party rights, Mostphotos advises Buyers to verify this by contacting Mostphotos. The Contributor who uploaded the Content is to be held responsible for any damage suffered by Buyers of the Content due to infringement, but Mostphotos can choose to remedy damages up to 1000 € and/or assistance as Mostphotos sees fit. Furthermore, Mostphotos cannot be held liable for a Buyer's use of any Content. If a Buyer's use of Content is in breach of This Agreement or applicable law, the Contributor who uploaded such Content is, besides Mostphotos, entitled to take legal actions against the Buyer and such breach and/or infringement.
- 10.3 You expressly understand and agree that Mostphotos or its service providers shall not be liable for any direct, indirect, incidental, special, consequential or exemplary damages, including but not limited to, damages for loss of profits, goodwill or data resulting from the use of the Service or any other matter relating to it. The liability of Mostphotos in relation to This Agreement is limited to 1000 €.
- 10.4 Mostphotos will not be held responsible for any of the Content uploaded to the Service.
- 10.5 If a Contributor has uploaded Content without fulfilling the duties specified within this agreement, especially section 3, the Contributor will solely and exclusively bear all costs and all responsibilities which may arise from such actions. In any and all cases Mostphotos shall bear no responsibility and no costs arising from such actions. Should

Mostphotos bear any costs as a result of such actions, the Contributor shall indemnify Mostphotos in accordance with section 12.

## **11 LIMITED WARRANTIES**

11.1 The Service is provided “as is” without warranties of any kind. Mostphotos does not warrant that the Service will meet User’s requirements of it or that the use of the Service will be uninterrupted or free from errors.

## **12 INDEMNIFICATION**

12.1 A User shall indemnify Mostphotos and its service providers with respect to all liability, losses, damages, costs or expenses howsoever caused, arising out of, or in connection with (i) a breach of This Agreement, (ii) the User’s gross negligence (iii) an upload, download or use of Content by the User and (iv) use or misuse of the Service.

## **13 USER-INFORMATION**

13.1 When Users upload or purchase Content through the Service you warrant that you have the legal capacity and are of the legal age (e.g. 18 years in Sweden), or have the legal consent, to enter into an agreement that legally bind you to the obligations set forth in this Agreement.

13.2 When you interact with the Service you shall provide Mostphotos with current, true and complete information requested in the registration form. You are responsible for keeping your information updated and complete.

13.3 Mostphotos have the right to send e-mails to the registered address of each User. Our intent is to provide Users with relevant information, which may include information from partners to Mostphotos.

13.4 You agree that you will be entirely responsible for any and all access of your use of the Service. You shall always keep your Username and Password confidential. You acknowledge that your Password is unique to you and that, although Mostphotos do have the ability to reset your Password, Mostphotos do not have the ability to access your Password.

13.5 Mostphotos processes personal data in accordance with current legislation applicable in Sweden. Information regarding how Mostphotos processes personal data as a data controller can be found at:

[https://www.mostphotos.com/privacy\\_policy](https://www.mostphotos.com/privacy_policy)



13.6 Mostphotos may process personal data as a data processor within the frames of the Service, when tasked by Users to do so. For example when a User uploads pictures or model releases which constitute personal data. The Users are data controllers in such situations and Mostphotos is a data processor. Such data processing is subject to the terms in Appendix 1.

## **14 YOUR CONTENT**

14.1 The Service allows Contributors to upload, store and publish Content, when doing this remember to follow the provisions in section 4 in This Agreement.

14.2 When Contributors publish Content they agree to provide Mostphotos with a universal, perpetual, worldwide, transferable license. Mostphotos will sell the published Content at a minimum price of 0.4 €. Mostphotos will upon sale compensate the Contributor in accordance with the rates set by Mostphotos at the time of sale.

14.3 Contributors agree that when they publish Content, their rights to be mentioned as photographer, artist or copyright holder have been waived.

14.4 All Commercial Content that Contributors publish, which portrays identifiable individual(s) and/or property and other design elements forbidden to photograph must be accompanied by a signed document in which the individual(s) or rightful owner give his/their/its consent ("Consent").

14.5 Users of the Service shall under no circumstances be considered employees or affiliated in any other way with Mostphotos.

14.6 Contributors are responsible for all taxes and fees associated with the commission connected to the sales of their Content. Mostphotos does not take responsibility for taxes, fees, tax-declarations or remunerations of any kind related to use of the Service.

14.7 Contributors are advised to keep back-up copies of their Content and to collect funds from their account on a regular basis since Mostphotos, in accordance with section 10 in This Agreement, is not responsible for losses of any kind.

14.8 Contributors agree that all their published Content automatically will be included in the subscription option of the Service provided by Mostphotos. Contributors may choose to exclude their Content from subscription sales.

14.9 Contributors will receive a 50% commission of the price in every sale of their Content. The commission will be added to the Contributor's available funds and visible from the Contributor's account menu within the service.

- 14.10 Contributors can collect their funds by using the “Withdraw” function in the Service. The money will be transferred to the registered bank, Paypal or Skrill account within thirty (30) days after the Contributor has correctly used the “Withdraw” function. Minimum withdrawal amount at any time is 10 €.
- 14.11 Users may not upload Content bearing a name, a logotype or a distinctive marking of any sort. Mostphotos may remove such Content, as stated in section 5.1.
- 14.12 If no Content has been neither uploaded by the Contributor nor sold within a 5-year period and no withdrawal from the service amounting to at least 10 € has been made, the Contributor’s funds will be forfeit.

## **15 BUYING CONTENT**

- 15.1 All purchases are final and binding, Buyers will not be refunded under any circumstances, except if the purchased Content has technical flaws or if required by law. When Buyers have paid for the Content, the Content will be available for the Buyers to use under the license they paid for.
- 15.2 Prices are stated on Mostphotos’ website and are exclusive of any applicable VAT.
- 15.3 Mostphotos may change the prices at any time and must inform any affected Buyer of a subscription of the Content in the Service of the price change prior to an update. Such a Buyer of a subscription then has the option to terminate the Agreement. By not terminating the Agreement, the Buyer accepts the price change when it becomes effective.
- 15.4 By purchasing a subscription plan, Buyers accept an automatic renewal of the subscription period until the subscription is cancelled. Buyers also accept that the e-commerce system of Mostphotos will automatically charge their credit card, bank account or automatically invoice their company every agreed upon period continually until cancellation. Buyers may cancel the subscription’s next period at any time before the period is purchased and once cancelled, no further payments will be charged. Upcoming subscription renewals, purchases and period durations is stated on the Buyers account on Mostphotos.

## **16 DURATION AND TERMINATION**

- 16.1 This Agreement is considered to be in effect from the day the User accepts it until either party terminates it.

16.2 Mostphotos has the right to, without prior notice and in its sole discretion, to terminate user accounts and/or to block Users from the Service.

## **17 SEVERABILITY**

17.1 If any provision of This Agreement between Mostphotos and the User is held to be invalid or unenforceable, such provision shall be limited, modified or severed to the minimum extent necessary to eliminate its invalidation or unenforceability so that This Agreement otherwise remain in full force, effect and enforceable.

## **18 GOVERNING LAW**

18.1 This Agreement shall be construed in accordance with and governed by the laws of Sweden.

## **19 DISPUTES**

19.1 Any dispute, controversy or claim arising out of or in connection with This Agreement, or the breach, termination or invalidity thereof, shall be finally settled by arbitration in accordance with the Rules for Expedited Arbitrations of the Arbitration Institute of the Stockholm Chamber of Commerce. The seat of arbitration shall be Stockholm. The language to be used in the arbitral proceedings shall be Swedish.

# APPENDIX 1 - TERMS AND CONDITIONS FOR PERSONAL DATA PROCESSING

## DEFINITIONS

To the extent that the European Parliament and Council's Regulation (EU) 2016/679 (also known as GDPR), hereinafter the data protection regulation, contains terms similar to those used in the Terms and Conditions, such terms must be interpreted and applied in accordance with the data protection regulation.

In the Terms and Conditions, the following terms must have the following meanings:

**Terms and Conditions** refer to this master document and always applicable appendices.

**Applicable provisions** means provisions and practices related to the data protection regulation, national supplementary legislation to the data protection regulation, regulatory authorities, including the European Data Protection Supervisor's regulations and observations and the Commission's Acts in the area of personal data.

**Mostphotos** refers to **Mostphotos AB** Mostphotos shall be considered the personal data processor in relation to the User.

**User** refers to those designated User in Mostphotos' General Terms and Conditions. The User is the Personal Data Controller in relation to Mostphotos.

The Terms and Conditions consist of this master document and the following appendices:

1. Specification of personal data processing

## 1 Background, purpose and validity of the Terms and Conditions

Mostphotos has been commissioned to process personal information on behalf of the User. Mostphotos provides an online platform for storing, marketing and selling images. The User has entered into a specific agreement regarding the use of Mostphotos' online platform. These terms and conditions constitute appendices to such separate agreements. The User may, in the context of the online platform, instruct Mostphotos to process personal information in the form of the User's images and the User's model contract. Mostphotos processes this personal data on the instructions of the User, as a personal data processor. This personal data processing terms and conditions shall apply to, and regulate, any processing by Mostphotos at the User's initiative.

## 2 The User's obligations

### 2.1 Processing in accordance with applicable provisions

#### 2.1.1 Processing in accordance with the applicable terms and conditions

The User must be responsible for all processing of personal data in accordance with the Terms and Conditions.

### **2.1.2 Provision of personal data**

The User must provide Mostphotos the information, instructions and personal information necessary and appropriate to fulfil its obligations in accordance with the Terms and Conditions.

### **2.1.3 Correct information**

The User must immediately provide Mostphotos the correct information in the event that the documented instructions are incorrect, incomplete or must otherwise be changed.

## **2.2 Documented instructions**

The User must provide Mostphotos documented instructions. This must regulate, but not be limited to, the personal data to be processed, the purpose of the processing, the duration and extent of the processing, the nature and purpose thereof, the type of personal data and the categories of data subjects, the User's and Mostphotos' obligations and rights, as well as the scope of protective measures and other IT and security related obligations.

The User must provide all of the information that may be required to enable Mostphotos to fulfil its contractual obligations to the User.

The documented instructions shall be attached to the Terms and Conditions, see Appendix 1.

## **3 Mostphotos' responsibilities**

### **3.1 The processing of personal data**

#### **3.1.1 Processing in accordance with the applicable terms and conditions**

Mostphotos shall only process personal information on behalf of the User in accordance with the terms and conditions.

Mostphotos may not, without the User's consent, and without prior notice from the relevant regulatory authority or without mandatory legislation,

- collect or disclose personal data from or to any third party unless otherwise agreed in writing,
- change the processing method,
- copy or restore personal data, or
- otherwise process personal data for purposes other than those listed in Appendix 1.

#### **3.1.2 Transferring personal data**

Mostphotos may not transfer any personal data to a state outside the EU or a State that does not maintain an adequate level of protection pursuant to the applicable provisions.

#### **3.1.3 Implementation of changes**

Mostphotos will implement changes, deletions, restrictions and transfers at the User's explicit request, but not if such a request is in violation of the Terms and Conditions or applicable provisions.

## **3.2 Technical and organisational measures**

### **3.2.1 Implement technical and organisational measures**

Considering the latest developments, implementation costs and the nature, scope, context and purpose of the processing and the risk of varying levels of probability and severity to the rights and freedoms of natural persons, Mostphotos must implement appropriate technical and organizational measures to ensure an appropriate level of security in relation to the risk.

### **3.2.2 Code of conduct and certification mechanism**

Mostphotos can demonstrate compliance with the aforementioned obligations through its association with an approved code of conduct or approved certification mechanism.

## **3.3 Record keeping**

### **3.3.1 Create a registry**

Mostphotos must maintain an internal register of all categories of processing carried out on behalf of the User. This shall include the following:

- Name and contact details of Mostphotos and the User on whose behalf Mostphotos acts, and, where applicable, the details of the User's or Mostphotos' representative and the data protection officer.
- The categories of processing that have been carried on behalf of the User.
- Where applicable, transfers of personal data to a third country or international organization, including identification of the third country or international organization and the documentation of appropriate safeguards.
- If possible, a general description of the technical and organizational security measures.

### **3.3.2 Written register**

Mostphotos must establish written registers, also in electronic form.

## **3.4 Notification obligation**

Mostphotos must notify the User without undue delay in the event the personal data processing is in violation of the Terms and Conditions, the data protection regulation or other legislation. Mostphotos must then wait for instructions from the User.

## **3.5 Information**

### **3.5.1 Disclosure of personal data**

Mostphotos may not disclose personal data or information about the processing of personal data without the User's prior consent, except in the event of any order from the relevant regulatory authority, or Mostphotos is required to do so in accordance with the applicable provisions.

### **3.5.2 Notification obligation in the event of contact**

Mostphotos must notify the User, without undue delay, if Mostphotos is contacted by a competent regulatory authority, data subject or third party for the purposes of accessing personal data processed by Mostphotos.

In the event that processing of personal data contrary to the Terms and Conditions is required by Mostphotos pursuant to mandatory EU or national law to which Mostphotos is

subject, Mostphotos must inform the User of the legal requirement before processing the data, unless such information is prohibited pursuant to an important public interest under this law.

### **3.6 Revision**

#### **3.6.1 Verification of compliance**

The User is entitled to review, internally or through third parties, to audit Mostphotos or otherwise verify that Mostphotos' processing of personal data complies with the provisions of the Terms and Conditions. In the event of such auditing or control, Mostphotos must provide the User with the assistance required to execute the auditing.

### **3.7 Security and confidentiality**

#### **3.7.1 Risk assessment**

Mostphotos must evaluate the risks of the processing and implement measures, e.g. encryption, to reduce any such risks. The measures should ensure an appropriate level of security, including confidentiality, taking into account the latest development and implementation costs in relation to the risks and types of personal data to be protected.

#### **3.7.2 Implement security measures**

Mostphotos must implement measures to ensure that any natural and legal person performing work under Mostphotos' supervision, and who accesses personal data, only processes that data in accordance with the User's instructions.

#### **3.7.3 Sufficient knowledge**

Mostphotos is responsible for ensuring that every natural person with access to the personal data processed in accordance with the Terms and Conditions has sufficient knowledge to process the personal data in a secure and efficient manner.

#### **3.7.4 Changes to the personal data processing**

If Mostphotos intends to make changes to the processing of personal data or otherwise implement changes that may affect the security of the data subjects, registered rights or compliance with the Terms or Rights, Mostphotos must notify the User in advance so that the User has 10 days to object.

#### **3.7.5 Privacy and confidentiality**

Mostphotos undertakes to process personal data and other information that relates to the Terms and Conditions in accordance with applicable confidentiality legislation. Personnel processing personal data have entered into specific confidentiality relationships and have been informed that the duty of confidentiality is in accordance with an agreement or national law.

#### **3.7.6 Appropriate confidentiality measures**

Mostphotos will ensure that all employees, consultants and others for whom Mostphotos is responsible and who process personal data are bound by an appropriate privacy obligation and are informed of how personal data shall be processed.

#### **3.7.7 Information for persons with access**

Mostphotos is responsible for ensuring that persons with access to personal data are informed of how to process the personal data in accordance with the documented

instructions provided by the User. Mostphotos must also ensure adequately competent management.

### **3.8 Personal data incidents**

#### **3.8.1 Implement anti-corruption measures**

In the event of a suspected or detected personal data incident, Mostphotos must immediately investigate the incident and take appropriate action to alleviate its potential adverse effects.

#### **3.8.2 Description of personal data incidents**

If the User so requests, a description of the personal data incident must be provided to the User. If it is not possible to provide the information simultaneously, the information may be provided in a stages without unnecessary further delay.

#### **3.8.3 Reporting of personal data incidents**

Mostphotos must notify the User without undue delay after being informed of a personal data incident.

#### **3.8.4 Unconditional duty of notification**

The above unconditional duty to notify the User also applies if, for any other reason, Mostphotos cannot fulfil the obligations under the Terms and Conditions or the documented instructions, or learns that personal data has been processed in violation of the Terms and Conditions.

### **3.9 Assist the User**

#### **3.9.1 Impact assessments and advance consultation**

When required and requested, Mostphotos must assist the User to fulfil its obligations under the provisions of the data protection regulation concerning the execution of impact assessments regarding data protection and prior consultation with the supervisory authority.

#### **3.9.2 Compliance with obligations regarding the rights of data subjects**

Considering the nature of the processing, Mostphotos must, to the extent possible and using the appropriate technical and organizational measures, help the User fulfil its obligation to respond to requests to exercise the data subject's rights in accordance with chapter III of the GDPR.

## **4 Mostphotos' assignment of subcontracted processors**

### **4.1 Written permission to engage subcontracted processors**

Mostphotos may not use another personal data processor (subcontracted processors) for processing in accordance with these terms without the prior written permission of a User. Specific written permission shall be provided by signing this agreement for the subcontracted processors listed in Appendix 1.

### **4.2 General written permission**

By signing this agreement, the User also provides a general, prior written authorization to Mostphotos to hire subcontracted processors. When employing subcontracted processors,



Mostphotos must inform the User of the intended subcontracted processor no later than 10 days prior to recruitment. The User may then object to the appointment of subcontracted processors. If the User has not objected within 10 days of the date on which the personal data processor informed the User of the intended subcontracted processor, the User shall be deemed to have authorized the personal data processor to engage the intended subcontracted processor.

#### 4.3 Risk division

Mostphotos' use of subcontracted processors is at its own risk. This does not entail any change to the division of responsibilities between the Parties under the Terms.

#### 4.4 Adequate level of protection

If the User approves Mostphotos' request to engage subcontracted processors, Mostphotos must take the necessary steps to ensure that the subcontracted processors maintain an adequate level of protection of the personal data being processed and otherwise complies with applicable parts of the Terms and Conditions of the data protection regulation.

#### 4.5 Agreement with subcontracted processors

In cases where a personal data processor hires a subcontracted processor for the execution of specific processing on behalf of the User, the subcontracted processor must be subject, through an agreement or another instrument under EU law or the national laws of Member States, to the same data protection obligations as those stipulated in the Terms and Conditions or the other instrument between the User and Mostphotos and, above all, provide sufficient guarantees to implement appropriate technical and organizational measures in such a manner that the processing meets the requirements of the applicable provisions. If the subcontracted processor does not fulfil its data protection obligations, Mostphotos shall be fully liable to the User for the execution of the subcontracted processor's obligations.

### 5 Liability for damages

#### 5.1 Mostphotos' liability

Mostphotos shall only be liable to the User for damages resulting from the processing of personal data if it has not fulfilled the obligations under applicable laws specifically applicable to Mostphotos, or acts in violation of the Terms or Conditions applicable to the use of Mostphotos' online platform.

Mostphotos will avoid the abovementioned liability if it shows that it is in no way responsible for the event that caused the damage.

#### 5.2 User responsibility

The User must compensate Mostphotos for claims brought against Mostphotos, provided that the claim is due to the User's inadequate or incorrect instructions to Mostphotos, the User's violation of any applicable law or the User's breaching of the terms and conditions for using Mostphotos' online platform.

## **6 Duration of the Terms and Changes and changes to the Terms and Conditions**

### **6.1 Duration**

The Terms and Conditions are valid from the date the Parties sign the agreement and during the period Mostphotos processes personal information in accordance with the User's instructions.

### **6.2 Return or deletion of personal data**

After processing on behalf of the User has been terminated, Mostphotos must return a copy of the data or delete the personal data, unless the storage of personal data is required by law to which Mostphotos is subject. If the personal data must be returned, it must be done without unnecessary delay and in a general and readable electronic format.

### **6.3 Consent for new forms of processing**

If the User intends to expand Mostphotos' processing of personal data to involve new forms of processing, Mostphotos' explicit consent is required.

## **7 Notification**

### **7.1 Written notifications**

Notifications and notices in accordance with the Terms and Conditions must be in writing.

## **8 Disputes**

### **8.1 Interpretation and application**

The terms must be interpreted and applied in accordance with Swedish law. Disputes concerning the interpretation and/or application of the Terms and Conditions must be resolved in a general court in Sweden, provided that no other authority, court of other jurisdiction has exclusive jurisdiction to resolve the dispute.

# Specification of personal data processing

## 1 About this appendix:

Mostphotos agrees that personal data may only be processed in accordance with the User's documented instructions. This appendix specifies

- the purposes for which processing may be used,
- the object of the processing,
- the personal data Mostphotos may process on the User's behalf,
- the types of personal data being processed, and
- categories of data subjects who are the object of the processing.

## 2 Type and purpose of the processing

Mostphotos must process personal data on the User's behalf for the following purposes: The User has entered into an agreement with Mostphotos to use Mostphotos' online platform for the storage, marketing and sale of images. Mostphotos must undertake all of the processing necessary to market, store and sell the images provided by the User, as well as store the existing model contracts associated with each image. This includes storing, organizing, structuring, reading, disseminating and relaying the data required to promote the User's images and complete sales.

## 3 Categories of data subjects

Mostphotos must process personal data on the following categories of data subjects: Models and witnesses to model contracts

## 4 Personal data and types of personal data being processed

Models

Mostphotos must process the following personal data and type of personal information about the User's models:

Bank account, address, email, phone number, images, names, Swedish National ID no.

Witness

Mostphotos must process the following personal data and type of personal information about the witness to the model contract:

Name, Swedish National ID no., address.

## 5 Security

Mostphotos must implement the following security measures as well as technical and organizational measures:

- **Access protection** Equipment, portable data media, etc. which is not subject to Mostphotos' supervision must be protected against unauthorized use, impact and theft. Personal data processed under this agreement must be encrypted. When laptops are used to process personal data, encryption must always be done on fixed and removable storage media.

- **Backup** Mostphotos must periodically make backups of personal data and keep them separate. Personal data must be so well protected that it can be restored after a disruption. Mostphotos must have procedures for testing restorations.
- **Authorization Control** Mostphotos must have a technical authorization system to ensure the correct user has the correct permission and access. The starting point is that the restriction must be such that only those who need the information to do their work must have access to it. Mostphotos must have procedures for allocating and revoking authorisation. All usernames and passwords are personal.
- **Repair and servicing** If computer equipment used to process the User's personal data is repaired and serviced by anyone other than Mostphotos, Mostphotos must establish a specific confidentiality agreement with the service provider. During the service provider's visit, the service must be done under the supervision of Mostphotos.
- **Investigation procedures** Mostphotos must ensure that there are technical and practical conditions for investigating suspicions of unauthorized access and other forms of unauthorized use of personal data.

## 6 Sub-contracted assistance

Under these Terms and Conditions, Mostphotos may request specific written permission from the User to designate the following subcontracted processors:

- Amazon, <https://pages.awscloud.com/compliance-contact-us.html>, Ireland
- Athene, 559054-6312, Norway
- Fortnox, 556469-6291, Sweden
- Google, [https://support.google.com/policies/troubleshooter/7575787?visit\\_id=1-636627869746555846-721482422&rd=1](https://support.google.com/policies/troubleshooter/7575787?visit_id=1-636627869746555846-721482422&rd=1), USA/Nederländerna/Taiwan/Chile/Ireland/Singapore/Finland/Belgien
- Hubspot, [privacy@hubspot.com](mailto:privacy@hubspot.com), USA
- Inexchange, 556700-9971, Sweden
- Inkassogram/Fakturagram, 559012-7725, Sweden
- Irisind, 559084-7223, Germany
- Mailchimp, [privacy@mailchimp.com](mailto:privacy@mailchimp.com), USA
- Mailtrack, [privacy@mailtrack.io](mailto:privacy@mailtrack.io), Spain
- Media Agency, Vybild AB, 556910-2097, Sweden
- Nordnet, 556249-1687, Sweden
- Paypal, <https://www.paypal.com/se/selfhelp/contact/email/privacy>, USA
- PWC, 556126-4259, Sweden
- Stripe, [dpo@stripe.com](mailto:dpo@stripe.com), USA
- Swedbank AB, 502017-7753,
- Wisestamp, [support@wisestamp.com](mailto:support@wisestamp.com),