

# Terms of Use

Last Updated: June 22, 2010

Your use of the Picbounce service, through the [www.picbounce.com](http://www.picbounce.com) Service or the Clixtr software (the “Service”) is subject to these Terms of Use (these “Terms of Use”). By using the Service, you agree to be bound by, and use the Service in compliance with, these Terms of Use. IF YOU DO NOT AGREE TO THESE TERMS OF USE, DO NOT USE THE SERVICE.

The terms "you," "your," and "yours" refer to you, the user of the Services. The terms "Picbounce", "Clixtr" "we," "us," and "our" refer to Clixtr, Inc. We may periodically make changes to these Terms of Use. It is your responsibility to review the most recent version of these Terms of Use frequently and remain informed of any changes to it. You agree that your continued use of the Service after such changes have been published to the Service shall constitute your acceptance of such revised Terms of Use.

## **License to Use the Service**

Subject to these Terms of Use, we grant to you a limited, personal, non-exclusive, non-transferable license to use the Service for your personal use and not for resale or further distribution. Your right to use the Service is limited by the terms set forth in these Terms of Use.

Except for this license granted to you, we retain all right, title, and interest in and to the Service, including all related intellectual property rights. The Service is protected by applicable intellectual property laws, including United States copyright law and international treaties.

Except as otherwise explicitly provided in these Terms of Use or as may be expressly permitted by applicable law, you will not, and will not permit or authorize third parties to: (a) reproduce, modify,

translate, enhance, decompile, disassemble, reverse engineer, or create derivative works of the Service; (b) rent, lease, or sublicense access to the Service; nor (c) circumvent or disable any security or technological features or measures of the Service.

## **Access to the Service; Modifications to the Service**

We do not provide you with the equipment to access the Service. You are responsible for all fees charged by third parties to access the Service (e.g., charges by internet service providers).

We reserve the right to modify or discontinue, temporarily or permanently, all or a part of the Service without notice. We will not be liable to you or to any third party for any modification, suspension, or discontinuance of the Service.

We also reserve the right, in our sole discretion, to reject, refuse to post, or remove any posting (including private messages) by you, or to restrict, suspend, or terminate your access to the Service at any time, for any or no reason, with or without prior notice, and without liability.

You must be 13 or older to register as a user or to use the Service.

## **Restrictions**

You must comply with all applicable laws, including U.S. export control laws, when using the Service. Except as may be expressly permitted by applicable law or authorized by us in writing, you will not, and will not permit anyone else to: (a) store, copy, modify, distribute, or resell any of the information; audio, visual, and audiovisual works; or other content made available on the Service (“Service Content”) or compile or collect any Service Content as part of a database or other work; (b) use any automated tool (e.g., robots, spiders) to use the Service or store, copy, modify, distribute, or resell any Service Content; (c) rent, lease, or sublicense your access to the Service to another person; (d) use the Service or Service Content for any purpose except for your own personal use; (e) circumvent or disable any digital rights management, usage

rules, or other security features of the Service; (f) use the Service in a manner that threatens the integrity, performance, or availability of the Service; or (g) remove, alter, or obscure any proprietary notices (including copyright notices) on any portion of the Service or Service Content.

## **Privacy Policy**

We collect registration and other information about you through the Service. Our collection and use of this information is governed by our Privacy Policy available at [add link to privacy policy]

## **Links and Third Party Content**

The Service may contain links to third party products, services, and Services. We exercise no control over the third party products, services, and Services and we are not responsible for their performance, do not endorse them, and are not responsible or liable for any content, advertising, or other materials available through the third party products, services, and Services. We are not be responsible or liable, directly or indirectly, for any damage or loss caused to you by your use of or reliance on any goods or services available through the third party products, services, and Services.

## **Password Restricted Areas of the Service**

Certain areas of the Service may be password restricted to registered users (“Password-Protected Areas”). If you have registered as an authorized user to gain access to these Password-Protected Areas, you agree that you are entirely responsible for maintaining the confidentiality of your password, and agree to immediately notify Clixtr if the password is lost, stolen, disclosed to an unauthorized third party, or otherwise may have been compromised. You agree that you are entirely responsible for any and all activities that occur under your account, whether or not you are the individual who undertakes such activities.

## **Submissions**

The Service allows you and other third parties to post information to the Service, including reviews and comments. Any opinions, advice,

statements, services, offers, or other information that constitutes part of the content expressed or made available by third parties on the Service are those of the respective authors or producers and not of Company, or its shareholders, directors, officers, or employees.

Company does not control the content posted by third parties via the Service and, as such, does not guarantee the accuracy, integrity or quality of such content. You understand that by using the Service, you may be exposed to content that is offensive, indecent or objectionable. Under no circumstances will Company, its shareholders, directors, officers, directors, or employees be held liable for any loss or damage caused by your reliance on information obtained through the Service. It is your responsibility to evaluate the information, opinion, advice, or other content available.

You agree that Company is free to use any comments, information, ideas, concepts, reviews, or techniques or any other material contained in any communication you may send to us (each, a "Submission"), including, without limitation, responses to questionnaires or through postings to the Service without further compensation, acknowledgement or payment to you for any purpose whatsoever including, but not limited to, developing, manufacturing and marketing products and creating, modifying or improving the Service and our products and services. Furthermore, by posting any Submission on the Service, submitting information to us, or in responding to questionnaires, you grant us a perpetual, non-exclusive, fully paid, royalty-free, irrevocable, sublicenseable, worldwide license and right to display, use, perform, reproduce, modify, distribute and create derivative works of the Submission or information submitted in any media, software, or technology of any kind now existing or developed in the future. By posting or providing a Submission or information, you represent and warrant that: (i) you own all right title and interest in your Submissions or otherwise have the right to grant the license set forth herein, and (ii) the posting of your Submissions on or through the Service does not (and will not) violate the privacy rights, publicity rights, copyrights, contract rights or any other rights of any person. You agree to pay all royalties,

license fees and any other monies owing any person by reason of any Submission posted by you on or through the Service.

## **Use Restrictions**

You are solely responsible for any content and other material that you submit, publish or display on the Service or transmit to other members and/or other Service users.

You will not use the Service to: (a) upload, post, email, or otherwise transmit any Submission that contains unlawful, harmful, threatening, abusive, harassing, tortious, defamatory, vulgar, obscene, libelous, invasive of another's privacy, hateful, or racially, ethnically or otherwise objectionable; (b) harm Company or third parties in any way; (c) impersonate any person or entity, or otherwise misrepresent your affiliation with a person or entity; (d) upload, post, email, or otherwise transmit any Submission that you do not have a right to transmit under any law or under contractual or fiduciary relationships (such as inside information, proprietary and confidential information learned or disclosed as part of employment relationships or under nondisclosure agreements); (e) upload, post, email or otherwise transmit any Submission that infringes any patent, trademark, trade secret, copyright or other proprietary right of any party; (f) upload, post, email, or otherwise transmit any unsolicited or unauthorized advertising, promotional materials, "junk mail," "spam," "chain letters," "pyramid schemes," or any other forms of solicitation; (g) upload, post, email, or otherwise transmit any material that contains software viruses or any other computer code, files, or programs designed to interrupt, destroy, or limit the functionality of any computer software or hardware or telecommunications equipment; (h) interfere with or disrupt the Service or servers or networks connected to the Service, or disobey any requirements, procedures, policies or regulations of networks connected to the Service; (i) intentionally or unintentionally violate any applicable local, state, national or international law or regulation; (j) "stalk" or otherwise harass another; (k) write comments that in any way refer to persons under 18 years of age; or (l) collect or store personal data about other users.

If you see content on the Service that violates these use restrictions, please contact Company at [feedback@clixtr.com](mailto:feedback@clixtr.com).

## **Disclaimer of Warranties**

YOUR USE OF THE SERVICE AND SERVICE CONTENT IS AT YOUR SOLE RISK. THE SERVICE AND SERVICE CONTENT ARE PROVIDED ON AN "AS IS" AND "AS AVAILABLE" BASIS. COMPANY EXPRESSLY DISCLAIMS ALL WARRANTIES OF ANY KIND, WHETHER EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO THE IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE, AND NON-INFRINGEMENT. WE DO NOT GUARANTEE THE ACCURACY, COMPLETENESS, OR USEFULNESS OF THE SERVICE AND SERVICE CONTENT, AND YOU RELY ON THE SERVICE AND SERVICE CONTENT AT YOUR OWN RISK. ANY MATERIAL OBTAINED THROUGH THE SERVICE IS DONE AT YOUR OWN DISCRETION AND RISK AND YOU WILL BE SOLELY RESPONSIBLE FOR ANY DAMAGE TO YOUR COMPUTER OR LOSS OF DATA THAT RESULTS FROM THE DOWNLOAD OF ANY MATERIAL THROUGH THE SERVICE. NO ADVICE OR INFORMATION, WHETHER ORAL OR WRITTEN, OBTAINED BY YOU FROM COMPANY OR THROUGH OR FROM THE SERVICE WILL CREATE ANY WARRANTY NOT EXPRESSLY STATED IN THIS AGREEMENT. SOME STATES MAY PROHIBIT A DISCLAIMER OF WARRANTIES AND YOU MAY HAVE OTHER RIGHTS THAT VARY FROM STATE TO STATE.

## **Limitation of Liability**

COMPANY WILL NOT BE LIABLE FOR ANY DIRECT, INDIRECT, INCIDENTAL, SPECIAL, CONSEQUENTIAL, OR EXEMPLARY DAMAGES, INCLUDING BUT NOT LIMITED TO, DAMAGES FOR LOSS OF PROFITS, GOODWILL, USE, DATA OR OTHER INTANGIBLE LOSSES (EVEN IF COMPANY HAS BEEN ADVISED OF THE POSSIBILITY OF THESE DAMAGES), RESULTING FROM YOUR USE OF THE SERVICE AND SERVICE CONTENT. UNDER NO CIRCUMSTANCES WILL COMPANY'S TOTAL LIABILITY OF ALL KINDS ARISING OUT OF OR RELATED TO YOUR USE OF THE SERVICE OR SERVICE CONTENT (INCLUDING BUT NOT LIMITED TO WARRANTY CLAIMS), REGARDLESS OF THE FORUM AND REGARDLESS OF WHETHER ANY ACTION OR CLAIM IS BASED ON

CONTRACT, TORT, OR OTHERWISE, EXCEED THE ONE HUNDRED DOLLARS (\$100). BECAUSE SOME STATES DO NOT ALLOW THE EXCLUSION OR LIMITATION OF LIABILITY FOR CONSEQUENTIAL OR INCIDENTAL DAMAGES, THE ABOVE LIMITATION MAY NOT APPLY TO YOU.

## **Copyright Infringement**

If you believe that your work has been copied in a way that constitutes copyright infringement, please contact us at [copyright@clixtr.com](mailto:copyright@clixtr.com) and provide Company's copyright agent, in writing, the following information required by the Digital Millennium Copyright Act, 17 U.S.C. § 512: (i) an electronic or physical signature of the person authorized to act on behalf of the owner of the copyright interest; (ii) a description of the copyrighted work that you claim has been infringed, including the URL (i.e., web page address) of the location where the copyrighted work exists or a copy of the copyrighted work; (iii) identification of the URL or other specific location on the Service where the material that you claim is infringing is located; (iv) your address, telephone number, and email address; (v) a statement by you that you have a good faith belief that the disputed use is not authorized by the copyright owner, its agent, or the law; and (vi) a statement by you, made under penalty of perjury, that the above information in your notice is accurate and that you are the copyright owner or authorized to act on the copyright owner's behalf. Company's agent for notice of claims of copyright infringement on this site can be reached using the contact information below.

## **Indemnity**

You will indemnify and hold Company, and its subsidiaries, affiliates, officers, agents, and employees, harmless from any costs, damages, expenses, and liability caused by your use of the Service, Service or Service Content, your violation of these Terms of Use, or your violation of any rights of a third party through use of the Service, Service or Service Content.

## **Updates to this Service and License Agreement**

We may occasionally update the Service and these Terms of Use. When we do, we will revise the “last updated” date on these Terms of Use. You should check this Service and these Terms of Use frequently to see recent changes. Your continued use of the Service after such changes will be subject to the then-current terms of use. This version of these Terms of Use shall supersede all earlier versions.

## **Legal Notices**

Enforcement of these Terms of Use will be governed by California law, excluding its conflict and choice of law principles. The exclusive jurisdiction and venue for any claims arising out of or related to these Terms of Use or your use of the Service will lie in the State and Federal courts located in Santa Clara County California. and you irrevocably agree to submit to the jurisdiction of such courts. The failure of Company to enforce any right or provision in these Terms of Use will not constitute a waiver of such right or provision unless acknowledged and agreed to by Company in writing. In the event that a court of competent jurisdiction finds any provision of these Terms of Use to be illegal, invalid or unenforceable, the remaining provisions will remain in full force and effect.

## **Contacting Company**

If you have any questions or concerns about the Service or these Terms of Use, please send us a thorough description by email to [feedback@clixtr.com](mailto:feedback@clixtr.com), or write to us at:

Clixtr Inc.  
P.O. Box 481  
San Francisco, CA 94104

# PRIVACY POLICY

Last updated: June 22, 2010

Thank you for your interest in Clixtr, Inc., (“Clixtr”) and our website located at <http://www.picbounce.com> (the “Website”). Your use of the Picbounce service, through the Website or the Picbounce software is subject to this Privacy Policy. The Clixtr service and Website are collectively referred to in this Privacy Policy as the “Service.” We are pleased to provide this privacy policy to inform you of our practices with respect to how we collect and use personally identifiable information in connection with your use of the Service.

## Information We Collect

The data that we regularly collect about visitors to the Website (e.g., IP address, browser type, pages accessed, duration of visit, etc.) does not necessarily enable us to personally identify you, and that is not our intention. We do collect personally identifiable information about you, such as your name and phone number, when you voluntarily provide it by registering with us or using the Service. Once you become a user, you may provide additional information in your profile section. Providing additional information is optional. To facilitate your use of the Service, Clixtr may automatically collect certain types of information when you access or use the Service. In order to collect this data, Clixtr may utilize automated tools and files such as “cookies.” These automated tools and files may reside on our servers or on your computer or device. If you restrict our ability to use automated tools and files, your ability to access and use all or part of the Service may be limited or disabled completely.

## Use of Information

Clixtr uses your personally identifiable information primarily to provide you with the Service and to provide customized content on the Service that is of interest to you. The information is also used to verify your authority to access the Service and to contact you when

reasonably necessary. Clixtr may also use any information you have provided as reasonably necessary to administer or provide customer support for the Service, and to provide you with periodic printed or e-mail communications about new products and services, discounts, special promotions or upcoming events. You may opt-out of receiving some or all non-Service related communications by updating your profile on the Service. Also, your full name and email address may be used when you use the Service to send a message to another user. Additionally, we use your email address to contact you on behalf of other friends on the site (such as when another user sends you a message).

## **Controlling Your Personal Information**

Clixtr may make available to users chat rooms, forums, message boards, and other interactive features. You should be aware that when you voluntarily disclose personally identifiable information (e.g. user name, e-mail address) via forums, postings, profiles or other areas of the Website, that information, along with any substantive information disclosed in your communication, can be collected, correlated and used by third parties and may result in unsolicited messages from other posters or third parties. Such activities are beyond the control of Clixtr. Please do not post any personal information on the Website or in other areas that you expect to keep private.

## **Disclosure**

Clixtr may disclose your personal information to third parties from time to time in our sole discretion. For this reason you should not disclose information to Clixtr that you do not want shared with third parties. In addition to the forgoing, Clixtr will disclose your personally identifiable information as it believes is reasonably necessary to comply with law, regulation or other governmental authority or to prevent harm to yourself or others. Clixtr may also contract with various third parties who help us provide and maintain the Service. For example, we may use a third party to process payments, and may subcontract out production, fulfillment, or other operations. In these cases, we will use commercially reasonable

efforts to prevent such third parties from disclosing your personal information, except for the purpose of providing the services in question. Additionally, as part of the Service, Clixtr will make your profile information available to other users of the Service. Finally, Clixtr may disclose your personally identifiable information upon a transfer or sale to another entity of all or substantially all of Clixtr's stock or assets in Clixtr's line of business to which this Privacy Policy relates or upon any bankruptcy or other corporate reorganization.

## **Links**

For your convenience, we may provide links to certain third party websites or referrals to certain third parties' products or services. If you choose to visit a third party's website or use its products or services, please be aware that the third party's privacy policy, and not the Clixtr privacy policy, will govern your activities and any information you disclose while interacting with the third party.

## **Security**

Because any personally identifiable information you submit to Clixtr is purely voluntary and should not be of a particularly sensitive nature, we employ our standard security measures with respect to this information and do not use special encryption methods at this time. Clixtr user accounts are secured by user-created passwords. Please note that Clixtr cannot guarantee the security of user account information. Unauthorized entry or use, hardware or software failure, and other factors may compromise the security of user information at any time.

## **Collection of Information From Children**

We do not knowingly collect personally identifiable information relating to children. In the event that we learn that we have collected personally identifiable information from anyone under 13 years of age without prior parental consent, we will take steps to promptly delete such information. By providing your personal information to Clixtr, through the Website, you represent that you are 13 years of age or older.

## **Policy Changes**

Clixtr reserves the right to change this privacy policy, and will post any revisions on the Website. We encourage you to review this Privacy Policy regularly for any changes. Your continued use of the Website will be subject to the then-current privacy policy.

## **International Visitors and Customers**

The Website is hosted in the United States. If you are visiting from the European Union (EU) or other regions with laws governing data collection and use that may differ from U.S. law, please note that you are transferring your personal data to the United States which does not have the same data protection laws as the EU and by providing your personal data you consent to:

- 1 (1) The use of your personal data for the purposes identified above in accordance with this Privacy Policy; and
- 2 (2) The transfer of your personal data to the United States as indicated above.

## **No Error-Free Performance**

Clixtr does not guarantee error-free performance under this Privacy Policy. We may not always catch an unintended privacy issue, despite our efforts to do so. Accordingly, we welcome your feedback regarding any privacy concerns that you may have, including how we can improve this Privacy Policy. We will use reasonable efforts to comply with this Privacy Policy and will take prompt corrective action when we learn of any failure to comply with it.

## **Legal Notices**

This Privacy Policy is subject to the terms in our Terms of Use, available for review at <http://www.picbounce.com/legal> including terms regarding limitations on damages, disclaimers of warranties, and resolution of disputes. Our Terms of Use take precedence over any conflicting provision in this Privacy Policy.

## **Questions**

If you have any questions about our privacy practices, please feel free to contact us at:

Clixtr Inc.  
P.O. Box 481  
San Francisco, CA 94104