



## **DRIFT, LLC**

### **Web Site Terms of Use**

Your use of the Internet site of Drift, LLC, including [www.drift-art.com](http://www.drift-art.com) (the "Site") is subject to these Terms of Use (these "Terms"). We may modify these Terms at any time without notice to you by posting revised Terms on our Site. Your use of our Site constitutes your binding acceptance of these Terms, including any modifications that we make.

#### **Content on our Site**

Our Site includes a combination of content that we create and that our artists create. All materials published on our Site, including, but not limited to, written content, photographs, graphics, images, illustrations, marks, logos, sound or video clips, and Flash animation, are protected by our copyrights or trademarks or those of our artists or partners. You may not modify, publish, transmit, participate in the transfer or sale of, reproduce, create derivative works of, distribute, publicly perform, publicly display, or in any way exploit any of the materials or content on our Site in whole or in part, other than as necessary for your own personal non-commercial use, except as permitted in a separate signed or online agreement with you.

Our Site also may contain content provided by third parties. This content may include, among other things, company information, and product or service information or reviews. It may also include information about products and services offered by parties other than Drift, such as product/service descriptions, offerings, store locations, coupons, and promotions. We do not guarantee the accuracy, the integrity, the completeness, or the quality of the content on our Site, and you may rely on any of this content only at your own risk. Without limitation, we are not responsible for postings by users in any section of our Site.

Although we take measures to control the content on our Site, you may be exposed to content that you find offensive, indecent, or objectionable or that is inaccurate, and you bear all risks associated with using that content. We have the right, but not the obligation, to remove any content that may, in our sole discretion, violate these Terms or that is otherwise objectionable.

#### **Third-Party Sites, Products, and Services**

Our Site may contain links to other Internet sites owned by third parties. Your use of each of those sites is subject to the conditions, if any, that each of those sites has posted. We have no control over sites that are not ours, and we are not responsible for any changes to or content on them. Our inclusion on our Site of any third-party content or a link to a third-party site is not an endorsement of that content or third-party site.

#### **Privacy Policy**



All of the information that we collect from you is subject to our privacy policy. Please click here [http://www.drift-art.com/pdfs/drift\\_privacy.pdf](http://www.drift-art.com/pdfs/drift_privacy.pdf) to see our full privacy policy.

### **Your Conduct on Our Site**

If we request information from you, you will provide us with true, accurate, current, and complete information.

The technology and the software underlying our Site is the property of Drift, our affiliates, and our partners. You agree not to copy, modify, rent, lease, loan, sell, assign, distribute, reverse engineer, grant a security interest in, or otherwise transfer any right to the technology or software underlying our Site. You agree not to modify the software underlying our Site in any manner or form or to use modified versions of such software, including (without limitation) for the purpose of obtaining unauthorized access to our Site.

Without limiting the foregoing, you agree that you will not use our Site to take any of the following actions:

- Defame, abuse, harass, stalk, threaten, or otherwise violate the legal right of others;
- Publish, post, upload, e-mail, distribute, or disseminate (collectively, "Transmit") any inappropriate, profane, defamatory, infringing, obscene, indecent, or unlawful content;
- Transmit files that contain viruses, corrupted files, or any other similar software or programs that may damage or adversely affect the operation of another person's computer, our Site, any software or hardware, or telecommunications equipment;
- Advertise or offer to sell any goods or services for any commercial purpose unless you have our written consent to do so;
- Transmit surveys, contests, pyramid schemes, spam, unsolicited advertising or promotional materials, or chain letters;
- Download any file that you know or reasonably should know cannot be legally obtained in such manner;
- Falsify or delete any author attributions, legal or other proper notices or proprietary designations or labels of the origin or the source of software or other material;
- Restrict or inhibit any other user from using and enjoying any public area within our Site;
- Collect or store personal information about other end users;



- Interfere with or disrupt our Site, servers, or networks;
- Impersonate any person or entity, including, but not limited to, a Drift representative, or falsely state or otherwise misrepresent your affiliation with a person or entity;
- Forge headers or manipulate identifiers or other data in order to disguise the origin of any content transmitted through our Site or to manipulate your presence on our Site;
- Take any action that imposes an unreasonably or disproportionately large load on our infrastructure; or
- Engage in any illegal activities.

Unauthorized access to our Site is a breach of these Terms and a violation of the law. You agree not to access our Site by any means other than through the interface that is provided by Drift for use in accessing our Site. You agree not to use any automated means, including, without limitation, agents, robots, scripts, or spiders, to access, monitor, or copy any part of our Site, except those automated means that we have approved in advance and in writing.

Use of our Site is subject to existing laws and legal process. Nothing contained in these Terms shall limit our right to comply with governmental, court, and law-enforcement requests or requirements relating to your use of our Site.

### **Indemnification**

You hereby agree to indemnify, defend and hold Drift, the artists, and all of our officers, directors, owners, employees, agents, information providers, affiliates, partners, and licensors (collectively, the "Drift Parties") harmless from and against any and all liability, losses, costs, and expenses (including attorneys' fees) incurred by any Drift Party in connection with any claim, including, but not limited to, claims for defamation, violation of rights of publicity and/or privacy, copyright infringement, or trademark infringement arising out of:

- Your use of our Site;
- Your connection to our Site;
- Your violation of these Terms; or
- Your violation of the rights of any other person or entity.



We reserve the right, at our own expense, to assume the exclusive defense and control of any matter for which you are required to indemnify us, and you agree to cooperate with our defense of these claims.

### **Disclaimers**

Except to the extent that you may have greater rights in a separate signed or online agreement with us: (a) we disclaim any responsibility for the deletion, the failure to store, the misdelivery, or the untimely delivery of any information or material; (b) we disclaim any responsibility for any harm resulting from downloading or accessing or using any artwork, content information or material obtained from our Site; (c) we disclaim any responsibility for any service outages that are caused by our maintenance on the servers or the technology that underlies our Site, failures of our service providers (including telecommunications, hosting, and power providers), computer viruses, natural disasters or other destruction or damage of our facilities, acts of nature, war, civil disturbance, or any other cause beyond our reasonable control.

WE DO NOT WARRANT THAT OUR SITE WILL BE UNINTERRUPTED OR ERROR FREE. IN ADDITION, WE DO NOT MAKE ANY WARRANTY AS TO THE CONTENT ON OUR SITE. OUR SITE AND THEIR CONTENT ARE DISTRIBUTED ON AN "AS IS, AS AVAILABLE" BASIS. ANY MATERIAL THAT YOU DOWNLOAD OR OTHERWISE OBTAIN THROUGH OUR SITE IS DONE AT YOUR OWN DISCRETION AND RISK, AND YOU WILL BE SOLELY RESPONSIBLE FOR ANY POTENTIAL DAMAGE TO YOUR COMPUTER SYSTEM OR LOSS OF DATA THAT RESULTS FROM YOUR DOWNLOAD OF ANY SUCH MATERIAL. NEITHER WE NOR ANY OF OUR PARTNERS MAKE ANY WARRANTY THAT (i) OUR SITE WILL MEET YOUR REQUIREMENTS, (ii) OUR SITE WILL BE UNINTERRUPTED, TIMELY, SECURE, OR ERROR FREE, (iii) THE RESULTS THAT MAY BE OBTAINED FROM THE USE OF OUR SITE WILL BE ACCURATE OR RELIABLE, (iv) THE QUALITY OF ANY PRODUCTS, SERVICES, INFORMATION, OR OTHER MATERIAL THAT YOU OBTAIN THROUGH OUR SITE WILL MEET YOUR EXPECTATIONS, AND (v) ANY ERRORS WILL BE CORRECTED. NEITHER WE NOR ANY OF OUR PARTNERS MAKE ANY WARRANTIES OF ANY KIND, EITHER EXPRESS OR IMPLIED, INCLUDING, WITHOUT LIMITATION, WARRANTIES OF TITLE OR IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, WITH RESPECT TO OUR SITE, ANY CONTENT, OR ANY OF OUR SERVICES, TOOLS, PRODUCTS, OR PROPERTIES. YOU EXPRESSLY AGREE THAT YOU WILL ASSUME THE ENTIRE RISK AS TO THE QUALITY AND THE PERFORMANCE OF OUR SITE AND THE ACCURACY OR COMPLETENESS OF ITS CONTENT.

NEITHER WE NOR OUR ARTISTS OR PARTNERS SHALL BE LIABLE FOR ANY DIRECT, INDIRECT, INCIDENTAL, SPECIAL, OR CONSEQUENTIAL DAMAGES



ARISING OUT OF THE USE OF OR INABILITY TO USE OUR SITE, EVEN IF WE HAVE BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

SOME STATES DO NOT ALLOW EXCLUSION OF IMPLIED WARRANTIES OR LIMITATION OF LIABILITY FOR INCIDENTAL OR CONSEQUENTIAL DAMAGES, SO THE ABOVE LIMITATIONS OR EXCLUSIONS MAY NOT APPLY TO YOU. IN SUCH STATES, OUR LIABILITY AND THAT OF OUR THIRD-PARTY CONTENT PROVIDERS AND THEIR RESPECTIVE AGENTS SHALL BE LIMITED TO THE GREATEST EXTENT PERMITTED BY LAW.

### **Arbitration**

Drift may elect to resolve any controversy or claim arising out of or relating to these Terms or our Site by binding arbitration in accordance with the commercial arbitration rules of the American Arbitration Association. Any such controversy or claim shall be arbitrated on an individual basis and shall not be consolidated in any arbitration with any claim or controversy of any other party. The arbitration shall be conducted in St. Louis, Missouri, and judgment on the arbitration award may be entered in any court having jurisdiction thereof. Either you or we may seek any interim or preliminary relief from a state or federal court of competent jurisdiction in the state of Missouri, necessary to protect the rights or the property of you or Drift (or its agents, suppliers, and subcontractors), pending the completion of arbitration.

### **Infringement Claims/Copyright Agent**

If you believe that any material contained on the Site infringes your copyright or other intellectual property rights, you should notify Drift of your copyright infringement claim in accordance with the following procedure. Drift will process notices of alleged infringement which it receives and will take appropriate action as required by the Digital Millennium Copyright Act (DMCA) and other applicable intellectual property laws. The DMCA requires that notifications of claimed copyright infringement should be sent to this Site's Designated Agent who is:

By mail: DMCA Copyright Agent  
Patrick Holleran  
16150 Main Circle Drive Ste. 100  
Chesterfield, MO 63017

By phone: 314.780.1204

By email: [Patrick@drift-art.com](mailto:Patrick@drift-art.com)

To be effective, the notification must be in writing and contain the following information (DMCA, 17 U. S. C. §512(c)(3)):



- Physical or electronic signature of a person authorized to act on behalf of the owner of an exclusive right that is allegedly infringed;
- Identification of the copyrighted work claimed to have been infringed, or, if multiple copyrighted works at a single online site are covered by a single notification, a representative list of such works at that site;
- Identification of the material that is claimed to be infringing or to be the subject of infringing activity and that is to be removed or access to which is to be disabled, and information reasonably sufficient to permit the service provider to locate the material;
- Information reasonably sufficient to permit the service provider to contact the complaining party, such as an address, telephone number, and, if available, an electronic mail address at which the complaining party may be contacted;
- A statement that the complaining party has a good faith belief that use of the material in the manner complained of is not authorized by the copyright owner, its agent, or the law; and
- A statement, made under penalty of perjury, that the information in the notification is accurate and that the complaining party is authorized to act on behalf of the owner of an exclusive right that is allegedly infringed.

E-mails sent to [Patrick@drift-art.com](mailto:Patrick@drift-art.com) for purposes other than communication about copyright claims may not be acknowledged or responded to.

### **Miscellaneous**

We may be required by state or federal law to notify you of certain events. You hereby acknowledge and consent that such notices will be effective upon our posting them on our Site or delivering them to you through e-mail. If you do not provide us with accurate information, we cannot be held liable if we fail to notify you. You have the right to request that we provide such notices to you in paper format, and may do so by contacting Patrick Holleran, Owner, 16150 Main Circle Drive, Suite 100, Chesterfield, Missouri 63017.

Our failure to exercise or enforce any right or provision of these Terms shall not constitute a waiver of such right or provision.

You agree that regardless of any statute or law to the contrary, any claim or cause of action arising out of or related to use of our Site or these Terms must be filed within one (1) year after such claim or cause of action arose or be forever barred.



These Terms, including all other online or written agreements, terms, conditions, and policies that are incorporated into these terms by reference, constitute the entire agreement between you and Drift and govern your use of our Site, and, except as specifically set forth herein, superseding any prior agreements that you may have with us.

These Terms shall be construed in accordance with the laws of the State of Missouri, and the parties irrevocably consent to bring any action to enforce these Terms before an arbitration panel or before a court of competent jurisdiction in Missouri if seeking interim or preliminary relief or enforcement of an arbitration award.

If any part of these Terms is determined to be invalid or unenforceable pursuant to applicable law, then the invalid or unenforceable provision will be deemed superseded by a valid, enforceable provision that most closely matches the intent of the original provision, and the remainder of the Terms shall continue in effect.