

Terms and Conditions of Use

Welcome to Preserving Your Memories LLC ("PYM"). The following Terms and Conditions of Use (this "Agreement") governs your ("You", "you", "your") use of the services provided by PYM's digital conversion services ("service"). This is a legal agreement between you and PYM.

YOU UNDERSTAND THAT BY PLACING AN ORDER AND BY USING THE SERVICE, YOU ARE AGREEING TO BE BOUND BY THIS AGREEMENT. IF YOU DO NOT ACCEPT THIS AGREEMENT IN ITS ENTIRETY, YOU MAY NOT ACCESS OR USE THE SERVICE. IF YOU AGREE TO THIS AGREEMENT ON BEHALF OF A BUSINESS, YOU REPRESENT AND WARRANT THAT YOU HAVE THE AUTHORITY TO BIND THAT BUSINESS TO THIS AGREEMENT, AND YOUR AGREEMENT TO BE BOUND WILL BE TREATED AS THE AGREEMENT OF THE BUSINESS. IN THAT EVENT, "YOU" AND "YOUR" WILL REFER AND APPLY TO THAT BUSINESS.

Terms of Service

Once your digital photo order is complete, you will receive a text or email notice from PYM to pick up your order and instructions on how to access and save the transferred digital files from this order ("Digital Files"). Digital Files are accessible for sixty (60) days following delivery of the email notice. DIGITAL FILES ARE DELETED FROM PYM'S SYSTEMS AFTER SIXTY (60) DAYS unless you pay for the one year subscription fee.

Acceptable Use and Conduct You are solely responsible for your conduct and your data related to the Service. You agree to indemnify, defend, and hold harmless PYM, its partners and its affiliates from any and all claim, loss, cost, liability, and expenses (including, without limitation, reasonable attorneys' fees and costs), arising from or related to your data, your use of the Service, your violation of this Agreement, and/or your violation of any third party right (Including intellectual property, attribution, publicity, privacy, and confidentiality). Your use of the Service must be in compliance with all applicable laws, rules and regulations and must not infringe or violate any third party rights. Any unauthorized use of the Service is a violation of this Agreement and certain federal and state laws. Such violations may subject the unauthorized user and his or her agents to civil and criminal penalties.

Eligibility

PYM offers its Service only to adults who can purchase them with a credit card or other permitted method of payment. If you are under 18, you may use PYM's Service only under the supervision of a parent or guardian.

Refusal of service

PYM, in its sole discretion, reserves the right to refuse service to any persons, terminate any accounts, reject performance of services on any material, or cancel any orders.

Responsibility For, Ownership and Consent to Access Your Data

PYM does not claim any ownership rights in your data. You are solely responsible for your conduct with respect to the Service and for the content of your data, as well as any of the content contained in your communications with other users of the Service. PYM allows you to share some or all of your data. If you decide to share your data, you are giving certain legal rights to those individuals or entities whom you

have given access to your data. By utilizing the Service, you consent to allow PYM to access your computer to access any data that you choose to be uploaded to the Service. By placing data into an accessible format through the use of the Service, you consent to share access to such data with those other users that have been authorized to access such data. PYM has no control over such other users' access and therefore PYM hereby disclaims any such associated liability. You represent and warrant that you own or have the necessary licenses, rights, consents and permissions required to grant the licenses set forth herein with respect to your data. You agree and acknowledge that PYM has no responsibility or obligation to monitor or notify you of any non-compliance related to the rights you may choose to grant to other users who have access to your data, if any, and that PYM has no responsibility to enforce or police, or aid you in enforcing or policing, the permissions you have chosen to offer. In fact, you acknowledge that PYM does not have any obligation to monitor any of the data that is uploaded, posted, submitted, linked to or otherwise transmitted using the Service, for any purpose and, as a result, is not responsible for the accuracy, completeness, appropriateness, timeliness, legality or applicability of the data or anything said, depicted, or written by users in their submissions, Including, without limitation, any information obtained by using the Service. PYM does not endorse anything contained in the data, or any opinion, recommendation or advice expressed therein and you agree to waive, and hereby do waive, any legal or equitable rights or remedies you have or may have against PYM with respect thereto.

Requests for public use

Occasionally, materials are submitted to PYM that would make great promotional materials, like a great photograph or clip from a wedding. Before we use any materials you submit to us publicly, we will request the right to use them from you. You have the right to decline our use of those materials.

No Reliance

You acknowledge and agree that you should not rely on the Service for any reason. You further acknowledge and agree that you are responsible to maintain and protect any and all data or information that is stored or processed by the Service. Without limiting the foregoing, you will be responsible for all costs and expenses that you or others may incur with respect to backing up, restoring and/or recreating any data or information that is lost or corrupted as a result of your use of the Service. Your access to and use of the Service is at your own risk. PYM will have no responsibility for any harm to your computer system, loss or corruption of any data or information, or other harm that results from your access to or use of the Service.

Changes to the Service and Terms and Conditions

PYM reserves the right at any time to modify, suspend, or discontinue providing the Service or any part thereof in its sole discretion with or without notice. PYM will use commercially reasonable efforts to notify you of modification, suspension, or discontinuance of the Service either by sending an email to the email address you provide with your registration or by a posting on our website. However, in no event will PYM be liable to you or to any third party for any modification, suspension or discontinuance of the Service, with or without notice.

PYM reserves the right at any time to modify this Agreement in its sole discretion, without liability to you. This Agreement, as amended, will be effective upon acceptance of registration for new users and

effective for all existing users 15 days after the posting of any amended terms on our website. You agree to be bound by this Agreement, as modified. If you do not agree to any changes to this Agreement, you must terminate your account immediately. Please review the most current version of this Agreement from time to time, so that you will be apprised of any changes.

Intellectual Property

You acknowledge that, as between you and PYM, PYM or its licensors own all right, title and interest in and to the Service, portions thereof, and PYM content provided through or in conjunction with the Service, including without limitation all intellectual property rights therein and thereto. Except for the rights granted in this Agreement, all rights in and to the Service are hereby reserved, and no implied licenses are granted by PYM. You may not copy or modify the HTML or other code used to generate web pages on our sites.

If you have comments on the Service or ideas on how to improve it, please send an email to koni@perservingmemories.net

You should be aware that data or information available through the Service may be protected by intellectual property, proprietary or confidentiality rights which are owned by the user who submitted or created the data or information. You may not modify, rent, lease, loan, sell, distribute or create derivative works of another user's submitted data or information unless you have been expressly allowed to do so by the rightful owner of such data or information.

Return policy

PYM accepts returns within 30 days of completion of an order. An order is completed (and the 30 days starts) from the date PYM hands a product to you or to the shipping carrier for shipment to you. Though we are not obligated to do so, we sometimes take returns past the 30 day window at our sole discretion. If you believe you are entitled to a return even though the 30 days has run, please contact us to voice your concerns.

Occasionally, items may arrive at our office in an unplayable or defective condition. If that happens, we will provide a review of the material. We do not charge any additional fees for review.

If the material is not transferrable due to age, fragility, format, damage, or any other condition we are not responsible for, your original materials will be returned to you.

Restrictions

You agree not to do any of the following while using the Service:

- Post, publish or transmit any text, graphics, or material that: (i) is false or misleading; (ii) is defamatory; (iii) invades another's privacy; (iv) is obscene, pornographic, or offensive; (v) promotes bigotry, racism, hatred or harm against any individual or group; (vi) infringes another's rights, including any intellectual property rights; (vii) violates, or encourages any conduct that would violate any applicable law or regulation or would give rise to civil liability; or (viii) violates a protective order;

- Access, tamper with, or use non-public parts of the Service (Including but not limited to user data that you have not been given permission to access), PYM's computer systems, or the technical delivery systems of PYM's providers;
- Attempt to probe, scan, or test the vulnerability of any system or network or breach any security or authentication measures. You may not use the Service in any manner that in PYM's sole discretion could damage, disable, overburden, or impair it or interfere with any other party's use of the Service. You may not intentionally interfere with or damage the operation of the Service or any user's enjoyment of it, by any means, including uploading or otherwise disseminating viruses, worms, or other malicious code. You may not remove, circumvent, disable, damage or otherwise interfere with any security-related features of the Service, features that prevent or restrict the use or copying of any content accessible through the Service, or features that enforce limitations on the use of the Service. You may not attempt to gain unauthorized access to the Service, or any part of it, other accounts, computer systems or networks connected to the Service, or any part of it, through hacking, password mining or any other means or interfere or attempt to interfere with the proper working of the Service or any activities conducted on the Service. You may not obtain or attempt to obtain any materials or information through any means not intentionally made available to you through the Service. You agree neither to modify the Service, nor to use modified versions of the Service, including (without limitation) for the purpose of obtaining unauthorized access to the Service;
- Attempt to access or search the Service with any engine, software, tool, agent, device or mechanism other than the search agents provided by PYM;
- Send unsolicited email, junk mail, "spam," or chain letters, or promotions or advertisements for products or services;
- Forge any TCP/IP packet header or any part of the header information in any email or newsgroup posting, or in any way use the Service to send altered, deceptive or false source-identifying information;
- Attempt to decipher, decompile, disassemble or reverse engineer any of the software used to provide the Service;
- Interfere with, or attempt to interfere with, the access of any user, host or network, Including, without limitation, sending a virus, overloading, flooding, spamming, or mail-bombing the Service; or plant malware on PYM's computer system, those systems of PYM's partners or providers, or otherwise use the Service to attempt to distribute malware; or
- Impersonate or misrepresent your affiliation with any person or entity.

PYM has the right to investigate and prosecute violations of any of the above, Including intellectual property rights infringement and Service security issues, to the fullest extent of the law. PYM may involve and cooperate with law enforcement authorities in prosecuting users who violate this Agreement. You acknowledge that although PYM has no obligation to monitor any user's access to or use of the Service, it still has the right to do so for the purpose of operating the Service, to ensure users' compliance with this Agreement, or to comply with applicable law or the order or requirement of a court, administrative agency or other governmental body.

Digital Millennium Copyright Act Compliance

You will only submit, upload, post or otherwise transmit data and/or files: (i) that you have the lawful right to use, copy, distribute, transmit, or display; or (ii) that does not infringe the intellectual property rights or violate the privacy rights of any third party.

Third Party Links

The Service may contain links to third-party websites or resources. You acknowledge and agree that PYM is not responsible or liable for: (i) the availability or accuracy of such websites or resources; or (ii) the content, products, or services on or available from such websites or resources. Links to such websites or resources do not imply any endorsement by PYM of such websites or resources or the content, products, or services available from such websites or resources. You acknowledge sole responsibility for and assume all risk arising from your use of any such websites or resources.

Term and Termination

This Agreement is effective upon accessing or using the Service and remains in effect until your account is terminated. You may terminate this Agreement at any time by closing your account and following the instructions on the Service. This Agreement automatically terminates if you fail to comply with its terms and conditions. Subject to these terms and conditions, PYM reserves the right to refuse or discontinue participation to any user at any time at its sole discretion. You agree that, upon such termination, your access rights to the Service will immediately terminate. The terms of the Sections entitled Intellectual Property, Disclaimer of Warranties, Limitation of Liability, and Miscellaneous Provisions will survive any expiration or termination of this Agreement, along with provisions regarding responsibility for your data and obligations of confidentiality. PYM has no obligation to provide you with a copy of your data and may remove and discard any data after termination.

Your Warranties

You agree to use the Site only for lawful purposes and only for your own personal, noncommercial use. You may not use the Site to transmit, post, download, distribute, copy, display publicly, store or destroy material (a) in violation of any applicable law or regulation, (b) in a manner that will infringe the copyright, patent, trademark, trade secret or other intellectual property rights of others or violate the privacy or publicity or other personal rights of others, or (c) that is libelous, obscene, offensive, threatening, defamatory, abusive or hateful.

By submitting an order, you represent and warrant the following to PYM: (a) no materials submitted to PYM are submitted in violation of any copyright laws; (b) any materials submitted were either created by you, you have the right to permit PYM to perform duplication services, or you have the permission of the copyright owner to duplicate the submitted materials; and (c) no materials submitted are libelous, pornographic, obscene, offensive, threatening, defamatory, abusive, hateful, or otherwise violate state or federal law. By submitting an order, you understand that PYM is relying on these representations.

You also agree that you will indemnify, defend and hold harmless PYM from and against any and all damages, costs and expenses, including attorneys' fees (i) arising from claims or demands brought by any third party against PYM regarding the infringement of any copyright law or violation of other

applicable federal or state law stemming from materials you submitted or (ii) arising from or related to your breach of these Terms of Use.

Due to the volume of its operation, PYM cannot fully inspect all the media submitted to it. However, there are instances in which PYM may discover that the transmission of media to PYM, the content of such media, and/or your specific request for services with regard to such media violates state and/or federal law. In the event of such discovery, PYM will take any and all steps necessary to comply with its own obligations under applicable law, including, but not limited to, reporting to and complying with relevant authorities. You hereby understand and agree that any submission or request that violates state or federal law will result in your forfeiture of any privacy rights you may have with respect to such media, including, but not limited to, any rights under PYM's Privacy Policy.

Non-assignable

Your rights and obligations under these Terms of Use are not assignable to any third party—neither voluntarily or by operation of law—without the prior written consent of PYM. Any assignment or purported delegation by you without PYM's written consent will be null and void and of no force or legal effect.

Disclaimer of Warranties

THE SERVICE AND ANY THIRD PARTY SERVICES ARE PROVIDED "AS IS" AND "AS AVAILABLE," WITH NO WARRANTIES WHATSOEVER. PYM AND SUCH THIRD PARTIES EXPRESSLY DISCLAIM TO THE FULLEST EXTENT PERMITTED BY LAW, ALL EXPRESS, IMPLIED, AND STATUTORY WARRANTIES, INCLUDING, WITHOUT LIMITATION, THE WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE, AND NON-INFRINGEMENT OF PROPRIETARY RIGHTS; ANY WARRANTIES ARISING OUT OF THE COURSE OF DEALING OR USAGE OF TRADE, AND ANY WARRANTIES REGARDING THE SECURITY, RELIABILITY, TIMELINESS, AND PERFORMANCE OF THE SERVICE AND SUCH THIRD PARTY SERVICES. YOU ACKNOWLEDGE THAT USE OF THE SERVICE MAY RESULT IN UNEXPECTED RESULTS, LOSS OR CORRUPTION OF DATA OR COMMUNICATIONS, PROJECT DELAYS, OTHER UNPREDICTABLE DAMAGE OR LOSS, OR EXPOSURE OF YOUR DATA TO UNINTENDED THIRD PARTIES. YOU UNDERSTAND AND AGREE THAT YOU USE THE SERVICE, AND ALL THIRD PARTY SERVICES MADE AVAILABLE IN CONJUNCTION WITH OR THROUGH THE SERVICE, AT YOUR OWN DISCRETION AND RISK AND THAT YOU WILL BE SOLELY RESPONSIBLE FOR ANY DAMAGES TO YOUR COMPUTER SYSTEM OR LOSS OF DATA THAT RESULTS FROM THE DOWNLOAD OR USE OF THE SERVICE AND SUCH THIRD PARTY SERVICES. PYM MAKES NO WARRANTY THAT THE SERVICE WILL MEET YOUR REQUIREMENTS OR BE AVAILABLE ON AN UNINTERRUPTED, SECURE, OR ERROR-FREE BASIS. PYM MAKES NO WARRANTY REGARDING THE QUALITY OF ANY PRODUCTS, SERVICES, OR INFORMATION PURCHASED OR OBTAINED THROUGH THE SITE OR SERVICE, OR THE ACCURACY, TIMELINESS, TRUTHFULNESS, COMPLETENESS OR RELIABILITY OF ANY INFORMATION OBTAINED THROUGH THE SITE OR SERVICE. NO ADVICE OR INFORMATION, WHETHER ORAL OR WRITTEN, OBTAINED FROM PYM OR THROUGH THE SITE OR SERVICE WILL CREATE ANY WARRANTY.

Limitation of Liability

By submitting media to PYM, you understand and agree that PYM's liability is limited in each of the following ways:

- The Site and all information, content, materials, and services included on or made available through the Site are provided by PYM on an “as is” and “as available” basis, unless otherwise specified in writing.
- PYM makes no representations or warranties of any kind, express or implied, about the operation of the Site or the information, content, materials, or services included on it or made available to you through it, unless otherwise specified in writing.
- PYM disclaims all warranties, express or implied, including implied warranties of merchantability and fitness for a particular purpose.
- Though we strive for perfection, PYM does not represent or warrant that the services provided will be error-free or that all defects will be corrected.
- PYM makes no representations or warranties of any kind regarding its order tracking system. PYM provides order tracking information to its customers for convenience but does not guarantee the accuracy of any order tracking information. You acknowledge that you are not relying on the accuracy of any order tracking information.
- PYM does not warrant that any of its services will fit the particular purpose of any user. PYM will not be liable for any incidental, consequential, special or punitive damages, loss of future revenues or income, lost profits, loss of business reputation or opportunity relating to any breach or alleged breach of these Terms of Use. This limitation of liability will be effective regardless of whether such liability is based on breach of contract, tort, strict liability, or any other legal theory.

By submitting media to PYM for conversion, duplication, or any other service, you agree that if any such media is lost or damaged by us, it will be replaced only with an equivalent type of blank media or the cost of such blank media. For example, if you submit a video tape to PYM for conversion, and it is damaged during the conversion process, you will be entitled only to a replacement blank video tape or the cost of replacing the physical tape, irrespective of what was on the original. The handling of your media by us is otherwise without warranty or liability.

Miscellaneous Provisions

This Agreement will be governed by and construed in accordance with the laws of the State of Utah, without giving effect to any conflict of laws provisions. The United Nations Convention on Contracts for the International Sale of Goods shall not apply to this Agreement. All disputes arising out of this Agreement will be subject to the exclusive jurisdiction of the state and federal courts serving Utah County, Utah and the parties agree and submit to the personal and exclusive jurisdiction and venue of these courts, except that nothing will prohibit PYM from instituting an action in any court of competent jurisdiction to obtain injunctive relief or protect or enforce its intellectual property rights.

YOU AGREE THAT ANY CAUSE OF ACTION ARISING OUT OF OR RELATING TO THE SERVICE MUST COMMENCE WITHIN 1 YEAR AFTER THE CAUSE OF ACTION ARISES. OTHERWISE, SUCH CAUSE OF ACTION IS PERMANENTLY BARRED.

The failure of PYM to exercise or enforce any right or provision of this Agreement does not constitute a waiver of such right or provision. If for any reason a court of competent jurisdiction finds any provision or portion of this Agreement to be unenforceable, the remainder of this Agreement will continue in full force and effect.

PYM is not liable for any delay or failure in performance resulting directly or indirectly from causes beyond its reasonable control, including, without limitation, failure of the Internet, power failure, failure of computer, telecommunication or other equipment, strikes, labor disputes, riots, insurrections, civil disturbances, shortage of labor or materials, fires, floods, storms, explosions, acts of God, war, governmental actions, orders of domestic or foreign courts, or non-performance of third parties.

This Agreement, which incorporates the PYM Privacy Policy, constitutes the entire agreement between you and PYM with respect to the subject matter hereof and supersedes and replaces all prior or contemporaneous understandings or agreements, written or oral, regarding such subject matter. Any waiver of any provision of this Agreement will be effective only if in writing and signed by PYM.

You may not assign or transfer any of your rights or obligations under this Agreement to a third party without the prior written consent of PYM. PYM may freely assign this Agreement. Any attempted assignment or transfer in violation of the foregoing will be void from the beginning.

Arbitration & choice of forum

Any dispute or claim relating in any way to your use of PYM's services, or your visit to the Site, will be resolved by binding arbitration rather than in court. You agree that the arbitration will occur before a single arbitrator. You also agree that both parties will be responsible for their own costs and attorney's fees, unless the claim is frivolous, in which case attorney's fees may be pursued.

There is no judge or jury in arbitration, and court review of an arbitration award is limited. An arbitrator can, however, award the same damages and relief as a court on an individual basis, and an arbitrator will follow and apply these Terms of Use as a court would.

To begin an arbitration proceeding, you must send a letter requesting arbitration and describing your claim to our registered agent at PYM, Koni Smith 4045 W Juniper Rd., Cedar Hills, UT 84062. The arbitration will be conducted by the American Arbitration Association (AAA) under its rules, including the AAA's Supplementary Procedures for Consumer-Related Disputes. The AAA's rules are available at www.adr.org or by calling 1-800-778-7879. Payment of all filing, administration and arbitrator fees will be governed by the AAA's rules.

You agree that, if possible under all relevant rules, the arbitration will occur in the State of Utah, in Cedar Hills, Utah, or as close to it as possible. If it is not possible under all relevant rules for the arbitration to occur in Utah, then you agree that the arbitration may occur by telephone (which is usually cheaper and easier for both parties) or may be based on written submissions.

Disputes as individuals

You and PYM both agree that any dispute resolution proceedings, whether judicial or arbitrated, will be conducted only on an individual basis, and not in a class nor any other consolidated or representative action.

Contacting Preserving Your Memories, LLC.

Users with questions about this Agreement or the PYM Privacy Policy may contact PYM via email at koni@preservingmemories.net

Risk of loss

PYM provides the service of transferring and converting various media into different forms. PYM does not provide any services related to shipment of that media to or from its offices. For this reason, any services purchased from PYM are made pursuant to a shipment contract. This means that the risk of loss for your media passes to PYM only when it arrives at our office, and the risk of loss passes back to you when we deliver your media to the shipping carrier (FedEx, USPS, etc.). BY SHIPPING ANY MEDIA TO PYM, YOU ACKNOWLEDGE THAT PYM IS NOT RESPONSIBLE FOR LATE, LOST, DAMAGED OR MISDIRECTED MAIL.

Force majeure

If any loss, damage, delay, or non-performance is a result of acts of God, or natural disaster or catastrophe; war, invasion, other hostilities (Including acts of terrorism), rebellion, or any other materially disruptive military or political event; embargo or labor dispute; power failures or other disruptions to services and utilities on which PYM relies; or any other unforeseen and external occurrence for which PYM is not responsible and could not predict which is required for the performance of its obligations, then PYM will not be liable for any such loss, damage, delay, or non-performance of services to the full extent excused under applicable law.

Merger

This Terms of Use represents the full agreement between you and PYM. No other representations (besides the individual price quote you are given for PYM's services), whether oral or written, form any part of your agreement with PYM. Additionally, this Terms of Use cannot be orally modified, even by PYM personnel, and no provisions of it can be waived by either party except in writing.

Severability

If any court or other body of competent jurisdiction declares any part of this Agreement to be unenforceable, then that part will be deemed severed, and the enforceability of the remaining parts will not be affected. The unenforceable part will simply not be considered to be part of this Agreement.