

End User License Agreement

License

1. Under this End User License Agreement (the "Agreement"), Mama Shan's Digital Imaging Goodies, LLC (the "Vendor") grants to the user (the "Licensee") a non-exclusive and non-transferable license (the "License") to use Mama Shan's Products.
2. Mama Shan's Products includes the executable presets, and any related printed, electronic and online documentation and any other images, and videos that may accompany the product.
3. Title, copyright, intellectual property rights and distribution rights of Mama Shan's Products remain exclusively with the Vendor. Intellectual property rights include the look and feel of the Products. This Agreement constitutes a license for use only and is not in any way a transfer of ownership rights to Mama Shan's Products..
4. This Agreement grants a site license to the Licensee. The Software may be loaded onto a maximum of 5 personal computers in your home or photography studio. Your assistants or employees are not allowed to copy these products for their personal use.
5. The rights and obligations of this Agreement are personal rights granted to the Licensee only. The Licensee may not transfer or assign any of the rights or obligations granted under this Agreement to any other person or legal entity. The Licensee may not make available Mama Shan's Products for use by one or more third parties, outside of their domicile or studio.
6. Mama Shan's Products may not be modified, reverse-engineered, or de-compiled in any manner through current or future available technologies.
7. Failure to comply with any of the terms under the License section will be considered a material breach of this Agreement.

License Fee

1. The original purchase price paid by the Licensee will constitute the license fee.

Limitation of Liability

1. Mama Shan's Product(s) are provided by the Vendor and accepted by the Licensee "as is". Liability of the Vendor will be limited to a maximum of the original purchase price of the Mama Shan's Product. The Vendor will not be liable for any general, special, incidental or consequential damages including, but not limited to, loss of production, loss of profits, loss of revenue, loss of data, or any other business or economic disadvantage suffered by the Licensee arising out of the use or failure to use the Products.
2. The Vendor makes no warranty expressed or implied regarding the fitness of the Product(s) for a particular purpose or that the Mama Shan's Product(s) will be suitable or appropriate for the specific requirements of the Licensee.
3. The Vendor does not warrant that use of Mama Shan's Products will be uninterrupted or error-free. The Licensee accepts that software in general is prone to bugs and flaws within an acceptable level as determined in the industry.
4. The Vendor may remedy any non-conforming Products by providing a refund of the purchase price or, at the Vendor's option, repair or replace any or all of the Mama Shan's Product(s).
5. Any refund provided under this section may be reduced where the Licensee has gained significant use and value from the Products. The reduction will be prorated over the anticipated life of the Products. The anticipated life of the Product is in perpetuity providing appropriate technologies are still available for its use.

Warrants and Representations

1. The Vendor warrants and represents that it is the copyright holder of the Products. The Vendor warrants and represents that granting the license to use these Products is not in violation of any other agreement, copyright or applicable statute.

Acceptance

1. All terms, conditions and obligations of this Agreement will be deemed to be accepted by the Licensee ("Acceptance") on installation of the Product(s) on the first computer.

User Support

1. The Licensee will be entitled to one year of phone support available 10:00 AM to 10:00 PM Central, at no additional cost for Product related issues, only. E-mail support available by writing to *mama@photoshopmama.net* with Product Name in the Subject Header.
2. The Licensee will be entitled to maintenance upgrades and bug fixes, at no additional cost, for a period of one year from the date of Acceptance.

Term

1. The term of this Agreement will begin on Acceptance and is in perpetuity.

Termination

1. This Agreement will be terminated and the License forfeited where the Licensee has failed to comply with any of the terms of this Agreement or is in breach of this Agreement. On termination of this Agreement for any reason, the Licensee will promptly destroy the Software or return the Software to the Vendor.

Force Majeure

1. The Vendor will be free of liability to the Licensee where the Vendor is prevented from executing its obligations under this Agreement in whole or in part due to Force Majeure, such as earthquake, typhoon, flood, fire, and war or any other unforeseen and uncontrollable event where the Vendor has taken any and all appropriate action to mitigate such an event.

Additional Terms

1. Mama Shan's Products, which may include, Actions, Presets, Templates, Images, PDF tutorials, and Video Tutorials are meant for the single purchaser or Professional Photography Studio to utilize in creating image products for their customers. Under the standard royalty free license any element may be used for private and professional applications.
2. Applications may include advertising and promotional materials, print publications or any other uses approved by Mama Shan in writing. All rights not expressly granted to you in this Agreement are specifically reserved to Mama Shan's Digital Imaging Goodies.
3. You may provide images that have been edited with Mama Shans' Products as customized by you, to your client with the native files as long as the client does not have the ability to create new derivative works from those files. The files you provide to a customer must be flattened from the original PSD format that some of Mama Shan's products provide and may not be editable.
4. You may also use the assets and templates in any print project, such as T-shirts, cards, books, prints, Web sites, calendars and other printed promotional items.
5. Mama Shan's Products may not be resold without an authorized re-seller agreement in place. This includes auction sites, file sharing sites and blogs, for which distribution of Mama Shan's Products is not allowed.
6. Use of a Product in a manner not specifically authorized by this Agreement constitutes an infringement of our licensors' proprietary rights and will subject you to infringement damages of no less than \$100,000.
7. Use of a Product in a manner that is contrary to a restriction stated in this Agreement is prohibited. In addition, you may not post any Product(s) or portion thereof or derived works to news groups, mail lists or electronic bulletin boards, file sharing sites, in a downloadable format.
8. Mama Shan's Products and its licensors own and will retain all copyrights in and to any Product, including any images contained in any Product package.
9. You may not copy, modify, sublicense, sell, distribute or transfer any part of any Product except as provided in this Agreement, and you agree to prevent unauthorized copying of the Product. Unauthorized reproduction, modification, sale or distribution is subject to civil and criminal penalties.

Governing Law

1. The Parties to this Agreement submit to the jurisdiction of the courts of the State of Tennessee for the enforcement of this Agreement or any arbitration award or decision arising from this Agreement. This Agreement will be enforced or construed according to the laws of Tennessee, the United States of America and International Intellectual Property Rights.

Miscellaneous

1. This Agreement can only be modified in writing signed by both the Vendor and the Licensee.
2. Headings are inserted for the convenience of the parties only and are not to be considered when interpreting this Agreement. Words in the singular mean and include the plural and vice versa. Words in the masculine gender include the feminine gender and vice versa. Words in the neuter gender include the masculine gender and the feminine gender and vice versa.
3. If any term, covenant, condition or provision of this Agreement is held by a court of competent jurisdiction to be invalid, void or unenforceable, it is the parties' intent that such provision be reduced in scope by the court only to the extent deemed necessary by that court to render the provision reasonable and enforceable and the remainder of the provisions of this Agreement will in no way be affected, impaired or invalidated as a result.
4. This Agreement contains the entire agreement between the parties. All understandings have been included in this Agreement. Representations which may have been made by any party to this Agreement may in some way be inconsistent with this final written Agreement. All such statements are declared to be of no value in this Agreement. Only the written terms of this Agreement will bind the parties.
5. This Agreement and the terms and conditions contained in this Agreement apply to and are binding upon the Vendor's successors and assigns.

Back up Disk

1. Licensee may make a back-up disk of Mama Shan's Products in order to re-install should there be loss due to computer failure.

Notices

1. All notices to the Vendor under this Agreement are to be provided at the following address:

Mama Shan's Digital Imaging Goodies, LLC
1016 Spain Avenue
Nashville, TN 37216-3627
USA

Web site: <http://www.photoshopmama.net>

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