

**PhotoMania- Terms of Use**  
*Last Revised: September 23, 2012*

Trionity Web Services Ltd. and its affiliates (“**Company**” or “**we**”) welcome you (“**User**” or “**you**”) to our full featured photo editing, viewing and cataloging application (the “**Service**” or “**PhotoMania**”). Our Service is available either on computer through various connection options as Facebook, Downloadable toolbar or on our site at [www.photomaniafx.com](http://www.photomaniafx.com) and [www.photomania.net](http://www.photomania.net) (the “**Site**”), or, in the upcoming months, on any Smartphone device (e.g. iPhone, Galaxy, HTC, etc.).

### **1. Acceptance of the Terms**

By connecting to, accessing or using the Site and/or the Service, you acknowledge that you have read and understood the following terms of use including the terms of the [Privacy Policy](http://www.photomaniafx.com/misc/privacy-policy.pdf) at the address <http://www.photomaniafx.com/misc/privacy-policy.pdf> (collectively, the “**Terms**”) and you agree to be bound by them and to comply with all applicable laws and regulations regarding your conduct on the Site or the Service. **IF YOU DO NOT AGREE TO THE TERMS, DO NOT CONNECT TO, ACCESS OR USE THE SITE OR THE SERVICE.**

The Terms may be revised and updated from time to time, with or without any notice. The Company shall make reasonable efforts to post a prominent notice in case the Terms shall change substantially. The Company urges you to check the Last Revised date which appears at the top of the Terms. You can review the most current version of the Terms at any time at: <http://www.photomaniafx.com/misc/tos.pdf>.

*By connecting to, accessing or using the Site or the Service, you acknowledge that the Terms constitute a binding and enforceable legal contract between the Company and any person connecting to, accessing or using the Site or the Service.*

### **2. The Service**

PhotoMania is a unique photo editing tool that enables you to add effects, sketches, paintings, celebs, cartoons, vintage effects, and more amazing effects to your personal photos (“**Photo/s**”). Our Service is a full featured, free photo editing, viewing and cataloging application. It lets you create artistic looking photos, funny photos, etc. All you need to do is take an existing Photo and add to it the special effects to create the photo you desire on PhotoMania.

*By uploading your Photo to the Service, you hereby represent and warrant that you are the sole owner of your Photo and any copyright and other intellectual property rights related thereto under United States laws and other applicable laws. You further represent and warrant that your Photo does not infringe upon any third party's rights, including copyrights and/or privacy rights and that you are solely responsible for your Photo and any other User Generated Content (as defined below) you upload to the Service and the consequences of posting or publishing such material in any way.*

### **3. Privacy Policy**

We respect your privacy and are committed to protect the information you share with it. We believe that you have a right to know our practices regarding the information we collect when you connect to, access or use the Site or the Service. Our policy and practices and the type of information collected are described in details in our Privacy Policy at:

<http://www.photomaniafx.com/misc/privacy-policy.pdf>. If you intend to connect to, access or use the Site or the Service you must first read and accept the Privacy Policy.

#### **4. Connecting to PhotoMania**

After downloading and installing our Service through AppStore or Google Play and/or downloading the Service toolbar on your computer and/or using the Service through our Site you shall start the registration process. To become a registered User on the Service, you may either have an active Facebook account or, you will be able to open a registered account directly on the PhotoMania Site in the upcoming months.

If you have a Facebook account, then on your first connection with PhotoMania you will be asked to permit sharing your basic information, email address and Photos with us. After the acceptance on your behalf our Service shall sync with Facebook and the registration shall be completed. From now on you are registered to PhotoMania. Welcome!

If you do not have an active Facebook account, you will be able to become a registered User of PhotoMania by connecting to the Site and providing us with several details about yourself, such as your name, active email address, country of residence, etc. During the registration process you will be asked to choose a password, which must be kept in confidence at all times. The details you voluntarily provide us shall be kept in confidence according to our Privacy Policy.

When registering on PhotoMania, you must provide the Company only with true, accurate and complete information. Otherwise, we will not be able to provide you with the services on PhotoMania and to contact you when necessary.

You will be able to edit your personal account information at any point, adding or removing any information as you see fit. Note that part of the information included in your account may be public and therefore available to other Users on PhotoMania. Therefore, to protect your privacy, please avoid from disclosing any personally identifiable information.

When you first access PhotoMania, you may walk through a tutorial on PhotoMania's fan page. Please note that this tutorial is very important as it will teach you how to use PhotoMania. You, of course, will be able to change the preferences at a later stage from the designated bar.

The registration and use of PhotoMania is free of charge. However, we may decide to charge registration fees or to convert a certain free of charge service to a fee based service on PhotoMania in the future. We will post a prior notice on PhotoMania once we decide to charge any fees for our Service. If you fail to settle the required fees for using the Service or do not agree with the terms in the notice, then your account on PhotoMania may be terminated.

#### **5. Children**

PhotoMania is not designed or intended for children under the age of thirteen (13). We reserve the right to request proof of age at any stage to verify that minors under the age of thirteen (13) are not using PhotoMania. In the event that we learn that a person under the age of thirteen (13) uses PhotoMania, we will prohibit such person from accessing PhotoMania and will make best efforts to promptly delete any Personal Information (as such term is defined in the Privacy Policy) with regard to such person.

#### **6. Use Restrictions**

There are certain conducts which are strictly prohibited on the Site and/or the Service. Please read the following restrictions carefully. Your failure to comply with any of the provisions set forth herein may result in the termination of your access to the Site and/or the Service and may also expose you to civil and/or criminal liability.

You, by yourself or anyone on your behalf, may not:

- Use PhotoMania for any illegal, unlawful or unauthorized purposes;
- Allow access to your account to children under the age of 13. You accept full responsibility for any unauthorized use of the Service by minors;
- Upload, post, transmit, distribute, display or otherwise make available through or in connection with PhotoMania any content, including your Photos and other User Generated Content [*please refer to section 8*], which may infringe third party rights, including any Intellectual Property [*please refer to section 7*] rights and privacy rights, or which may contain any unlawful content;
- Use PhotoMania in any form of spam, unsolicited mail or similar conduct;
- Use PhotoMania for non-personal or commercial purposes without Company's express prior written consent;
- Fail to pay subscription fees (to the extent such exist), if ,for example, your credit card was blocked or the use thereof was limited in any way;
- Interfere with or violate Users' rights to privacy and other rights, or harvest or collect data and information about Users without their express consent, whether manually or with the use of any robot, spider, crawler, any search or retrieval application, or use other automatic device, process or method to access PhotoMania and retrieve, index and/or data-mine information;
- Post, publish, or otherwise make available through PhotoMania any content, text or information that is abusive, harassing, threatening, obscene, defamatory, libelous, or racially, sexually, religiously, or otherwise objectionable or offensive;
- Interfere with or disrupt the operation of PhotoMania or the servers or networks that host PhotoMania, or disobey any laws or regulations or requirements, procedures, policies, or regulations of such servers or networks;
- Impersonate any person or entity or provide false information on PhotoMania, whether directly or indirectly;
- Falsely state or otherwise misrepresent your affiliation with any person or entity, or express or imply that the Company or any third party endorses you, your website, your business or any statement you make, or present false or inaccurate information about PhotoMania;
- Take any action that imposes, or may impose, in our sole discretion, an unreasonable or disproportionately large load on our platform infrastructure;
- Bypass any measures we may use to prevent or restrict access to PhotoMania;
- Copy, modify, alter, adapt, make available, translate, port, reverse engineer, decompile, or disassemble any portion of PhotoMania in any way;

- Create a browser, frame, border environment or GUI around PhotoMania.

## **7. Intellectual Property Rights**

The Site, the Service and the Intellectual Property rights pertaining thereto, including, but not limited to, inventions, patents and patent applications, trademarks, trade names, copyrightable materials, graphics, text, designs (including the "look and feel" of the Site), specifications, methods, procedures, algorithms, data, technical data, interactive features, source and object code, files, interface, GUI and trade secrets, whether or not registered (collectively, "**Intellectual Property**"), are owned and/or licensed to the Company and subject to copyright and other applicable intellectual property rights under Israeli laws, foreign laws and international conventions.

## **8. User's Generated Content**

- 8.1. PhotoMania allows you to upload, post, publish and make available through it, your own copyright-protected or copyrightable materials such as your Photos and other proprietary materials, including without limitation links to such copyright-protected or copyrightable materials (the "**User Generated Content**").
- 8.2. As long as your User Generated Content is subject to the applicable copyright law, such User Generated Content shall remain at all times, and to the extent permitted by law, your sole and exclusive property.
- 8.3. You understand and agree that you are solely responsible for your User Generated Content and the consequences of posting or publishing such material in any way.
- 8.4. You represent and warrant that you either own, or have (and will continue to have) all necessary licenses, rights, consents, and permissions which are required to use and to enable PhotoMania to use your User Generated Content.
- 8.5. You agree that you will not post or upload any User Generated Content containing content which is unlawful for you to possess, post or upload in the country in which you are resident, or which it would be unlawful for the Company to use or possess in connection with PhotoMania. Without derogating from the above, you represent and warrant that your User Generated Content will not: (i) promote illegal activity, or contain content that is illegal; (ii) contain content that is defamatory, misleading, fraudulent, obscene, distasteful, racially or ethnically offensive, harassing, or that is discriminatory based upon race, gender, color, religion, age, disability or sexual orientation; (iii) contain sexually suggestive, including porn or pedophilia content; (iv) disparage or defame the Company or any third party; (v) contain any virus, worms, Trojan horses and other disabling or damaging codes; or (vi) otherwise contain content that violates any laws, rules, regulations or policies of any competent jurisdiction. Company explicitly reserves the right to remove the User Generated Content without a prior notice, at its sole discretion.
- 8.6. You understand and agree that any User Generated Content that you wish to upload or post on PhotoMania may not be posted on PhotoMania indefinitely. We may also delete User Generated Content after a certain period of time from initial posting, at our sole discretion. Consequently, you might not find User Generated Content that you or any other User previously uploaded to PhotoMania, and you shall have no claim or argument against PhotoMania in this respect.
- 8.7. When you upload, post, publish or make available User Generated Content on PhotoMania or use such User Generated Content via PhotoMania, you grant to the Company an irrevocable, perpetual, non-exclusive, royalty-free, transferable, assignable, sub-licensable and worldwide license, to use, reproduce, distribute, transmit, prepare derivative works of (including by using the Service's editing features), display, make available to the public and perform that User Generated

Content in connection with PhotoMania, whether through the Internet, any mobile device or otherwise, in any media formats and through any media channels known today and developed in the future.

## **9. USER REPRESENTATIONS AND UNDERTAKINGS**

### **9.1. As a condition for your use of the Site, you hereby represent and warrant that:**

- You possess the legal authority to enter into these Terms and to form a binding agreement under any applicable law, to use the Site in accordance with these Terms, and to fully perform your obligations hereunder;
- If you are between the ages of 13 and 17, you represent that your legal guardian has reviewed and agreed to these Terms;
- The execution of the Terms does not and will not violate any other agreement to which you are bound or any law, rule, regulation, order or judgment to which you are subject; and
- You will not infringe or violate any of the Terms.

### **9.2. You acknowledge and agree that:**

- Company may remove any User Generated Content and/or discontinue your use of the Site or the Service in its sole discretion with or without any reason;
- The Company may integrate commercials and advertisements, whether within or beside the Site or the Service. All the information contained in such commercials and advertisements belongs solely to the advertisers and the Company makes no warranties or representations as to such advertisements, whether or not the Company has control over such advertisements. The Company, advertisers and/or third-parties related thereto may be entitled to certain shares of the earnings for such commercials. You agree, acknowledge and consent that you will not be entitled to any compensation of any kind whatsoever with respect to such monetary amounts.

## **10. Trademarks and Trade names**

“PhotoMania”, "Trionity" and all other proprietary identifiers used by the Company in connection with the Site and the Service (“**Company Trademarks**”) are all trademarks and/or trade names of the Company, whether or not registered. All other trademarks, service marks, trade names and logos which may appear on the Site belong to their respective owners (“**Third Party Marks**”). No right, license, or interest to the Company Trademarks and the Third Party Marks is granted hereunder, and you agree that no such right, license, or interest shall be asserted by you with respect to the Company Trademarks or the Third Party Marks.

## **11. Links to Third Party Sites**

The Site and the Service may contain links to websites of third parties such as social network sited (“**Third Party Sites**”), whether such links have been suggested by the Company, shared by any User or posted by third parties. You hereby acknowledge that the Company has no control over such Third Party Sites, and you further acknowledge and agree that the Company is not responsible for the availability of Third Party Sites, and does not endorse and is not responsible or liable for any services, content, advertisements, products, or any materials on or available Third Party Sites. You further acknowledge and agree that the Company shall not be responsible or liable, directly or indirectly, for any

damage or loss whatsoever caused, or alleged to be caused, by or in connection with use of or reliance on any services, content, products or other materials available on or through any Third Party Sites. Most Third Party Sites provide legal documents, including terms of use and privacy policy, governing the use of such sites. It is always a good idea to read such documents carefully.

## **12. Advertisements**

The Company may integrate commercials, advertisements and/or sponsored links, whether within or beside PhotoMania. By clicking the advertisements you may be transferred to a website of an advertiser or receive any other messages, information or offers from the advertiser and from others. All the information contained in such commercials and advertisements belongs solely to the advertisers and the Company makes no warranties or representations as to such advertisements, whether or not the Company has control over such advertisements. The Company, advertisers and/or third-parties related thereto may be entitled to certain shares of the earnings for such commercials. You agree, acknowledge and consent that no right, title or interest is or shall be granted to you in any way with respect to any revenue share whatsoever in relation thereto, whether as a paying User or not.

## **13. Availability**

PhotoMania's availability and functionality depends on various factors, such as communication networks, software, hardware and the Company's services' providers and contractors. The Company does not warrant or guarantee that PhotoMania will operate at all times without disruption or interruption, or that it will be immune from unauthorized access or error-free.

## **14. Changes to PhotoMania**

The Company may change PhotoMania's layout and design from time to time, and the availability of the content and services included therein, without giving any prior notice on PhotoMania. You hereby agree and acknowledge that the Company is not responsible for any errors or malfunctions that may occur in connection with the performing of such changes.

## **15. Changes and/or Cancellation of User Account**

If you have registered to PhotoMania directly on the Site, you may change, edit, correct or delete any and all information included in your personal account, at any time, by sending an email to us to: [support@photomania.net](mailto:support@photomania.net), with your request. Please note that we will not be able to delete any photos you have created on PhotoMania and shared on any of your social network accounts (e.g. your Facebook account), external to PhotoMania. To remove any photos shared on your Facebook account, please follow Facebook's instructions [here](#). For the cancellation and removal of your account from PhotoMania and on any matters that extend the usual management of your account, you may contact the Company at: [support@photomania.net](mailto:support@photomania.net) with such specific request. Your account on PhotoMania will terminate 10 days following your request, and from that date of termination you will no longer be able to access your account. Except for any photos you have created on PhotoMania and shared on any of your external social network accounts (e.g. your Facebook account), all User Generated Content you have uploaded to PhotoMania, including your Photos, shall be deleted from Company's servers. In any other matters, we will attempt to comply with any request to the best of our capabilities.

## **16. Amendments to the Terms**

The Company may change the Terms from time to time, including the [Privacy Policy](#) or any other policies incorporated thereto. Substantial changes will be first notified at PhotoMania's homepage. In the event that the Terms should be amended to comply with any legal requirements, the amendments may take effect even immediately, or as required by the law and without any prior notice.

You hereby agree and acknowledge to accept any and to be bound by any of the changes made in the Terms and the accompanying policies. Should you continue to use PhotoMania after the changes were made, it will indicate your acceptance to the new Terms. You are recommended to review the Terms from time to time, as they may change every once in a while.

#### **17. Account and Service Termination**

At any time, the Company may block your access to PhotoMania and/or temporarily or permanently limit, suspend or terminate your account, for any reason, at its sole discretion, in addition to any other remedies that may be available to the Company under any applicable law. Such actions by the Company may be taken if the Company deems that you have breached any of these Terms in any manner.

Additionally, the Company may at any time, at its sole discretion, cease the operation of the Service or the Site or any part thereof, temporarily or permanently, without giving any prior notice and without saving any back-up of any of the User's Photos or other User Generated Content. You agree and acknowledge that the Company does not assume any responsibility with respect to, or in connection with the termination of the Service or the Site's operation or any part thereof and loss of any data, including User Generated Content, as a result.

#### **18. Disclaimer and Warranties**

THE SITE AND SERVICE, INCLUDING WITHOUT LIMITATION ANY CONTENT, DATA AND INFORMATION, INCLUDING PRODUCTS' INFORMATION, RELATED THERETO, ARE PROVIDED ON AN "AS IS" AND "AS AVAILABLE" BASIS, WITHOUT ANY WARRANTIES OF ANY KIND, EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO WARRANTIES OF TITLE OR NON-INFRINGEMENT OR IMPLIED WARRANTIES OF USE, MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.

THE COMPANY DOES NOT WARRANT THAT THE SITE OR THE SERVICE WILL BE UNINTERRUPTED OR ERROR-FREE. THE COMPANY MAY CORRECT, MODIFY, AMEND, ENHANCE, IMPROVE AND MAKE ANY OTHER CHANGES TO THE SITE AND/OR THE SERVICE AT ANY TIME OR TO DISCONTINUE DISPLAYING OR PROVIDING ANY INFORMATION, CONTENT OR FEATURES WITHOUT A NOTICE TO YOU.

THE COMPANY HEREBY DISCLAIMS ALL WARRANTIES AND CONDITIONS WITH REGARD TO THE USE OF THE SITE OR THE SERVICE, INCLUDING BUT NOT LIMITED TO THE AVAILABILITY, RELIABILITY, OR QUALITY OF THE SITE OR THE SERVICE, AND IS NOT AND SHALL NOT BE RESPONSIBLE FOR ANY ERROR, FAULT OR MISTAKE RELATED TO ANY CONTENT AND INFORMATION. THE COMPANY DOES NOT ENDORSE ANY ENTITY, PRODUCT, INFORMATION OR SERVICE MENTIONED IN ANY USER GENERATED CONTENT NOR ANY COPYRIGHT INFRINGEMENT.

#### **19. Limitation of Liability**

THE USE OF THE SITE AND THE SERVICE IS SOLELY AT YOUR OWN RISK. IN NO EVENT WILL THE COMPANY BE LIABLE FOR ANY DAMAGES WHATSOEVER INCLUDING, BUT NOT LIMITED TO, INDIRECT, SPECIAL, INCIDENTAL OR CONSEQUENTIAL DAMAGES OF ANY KIND, WHETHER IN AN ACTION OF CONTRACT, NEGLIGENCE OR OTHER TORTIOUS ACTIONS RESULTING FROM OR ARISING OUT OF THE SITE OR THE SERVICE, OR THE USE OR INABILITY TO USE THE SITE OR THE SERVICE, REGARDLESS OF WHETHER THE COMPANY OR AN AUTHORIZED REPRESENTATIVE OF THE COMPANY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. EXCEPT WHERE LIABILITY IS MANDATORY, IN WHICH EVENT LIABILITY FOR DAMAGES WILL BE LIMITED TO TEN US DOLLARS (\$10).

## **20. Indemnification**

You agree to defend, indemnify and hold harmless the Company, its officers, directors, employees and agents, from and against any and all claims, damages, obligations, losses, liabilities, costs, debts, and expenses (including but not limited to attorney's fees) arising from: (i) your use of the Site or the Service; (ii) your violation of any term of these Terms; (iii) your violation of any third party rights, including without limitation any intellectual property rights or privacy right of such third party; and (iv) any damage of any sort, whether direct, indirect, special or consequential, you may cause to any third party with relation to the Site or the Service. It is hereby clarified that this defense and indemnification obligation will survive these Terms.

## **21. Copyright Agent**

**The Company respects the intellectual property rights of others.** If you believe that your work has been copied or otherwise used on PhotoMania in a way that constitutes copyright infringement, please provide the following information in writing to the Company's Copyright Agent: (i) the contact details of the person authorized to act on behalf of the owner of the copyright; (ii) a description of the copyrighted work that you claim has been infringed; (iii) a description of the material that you claim 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 sufficient to permit the Company to locate the material; (iv) a statement that you have 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 (v) a statement that the information in the notification is accurate and, under penalty of perjury, that you are the copyright owner or are authorized to act on behalf of the owner of a copyright that is allegedly infringed. The Company's Copyright Agent can be reached through the following address:

### **Trionity Web Services Ltd.**

Address: *8 Shoam St., Ramat Gan, Israel*

Phone: *+972-3-5041273*

Fax: *+972-3-5041273*

Email: [support@photomania.net](mailto:support@photomania.net)

**The Company will respond to any claims of alleged copyright infringement and may remove the alleged infringing content from PhotoMania according to your notice, as it deems fit.**

## **22. General**



- 22.1. These Terms do not, and shall not be construed to create any relationship, partnership, joint venture, employer-employee, agency, or franchisor-franchisee relationship between the parties hereto.
- 22.2. Any claim relating to the Site, the Service or the use thereof will be governed by and interpreted in accordance with the laws of the State of Israel without reference to its conflict-of-laws principles.
- 22.3. Any dispute arising out of or related to the Site or the Service will be brought in, and you hereby consent to exclusive jurisdiction and venue in, the competent courts of the Tel-Aviv-Jaffa District, Israel. You agree to waive all defenses of lack of personal jurisdiction and forum non-convenience and agree that process may be served in a manner authorized by applicable law or court rule.
- 22.4. If any provision of this Terms is found to be unlawful, void, or for any reason unenforceable, then that provision will be deemed severable from this Terms and will not affect the validity and enforceability of any remaining provisions.
- 22.5. No waiver by either party of any breach or default hereunder will be deemed to be a waiver of any preceding or subsequent breach or default. Any heading, caption or section title contained herein is inserted only as a matter of convenience, and in no way defines or explains any section or provision hereof.
- 22.6. These Terms constitute the entire terms and conditions between you and the Company relating to the subject matter herein and supersedes any and all prior or contemporaneous written or oral agreements or understandings between you and the Company.

**23. For Information or Questions Please Contact:**

Email: [contact@photomania.net](mailto:contact@photomania.net)