

TERMS OF USE

Thank you for using Digital Masterpieces's Apps. Digital Masterpieces GmbH ("Digital Masterpieces", "we" or "us") offers a number of apps and Web-Services ("Apps", and each an "App") which provide you with a wide platform of services or functionality (the "Service(s)") allowing you, amongst other things, to edit and perfect photos, create cartoons or digital artwork, transform and edit videos and share your creations through social media and other channels.

1. **Agreement**

- 1.1 These Terms of Use (this "Agreement" or these "Terms") constitute a binding agreement between Digital Masterpieces and each end user ("you" or "your") regarding the use of the Apps and the Services. By downloading or using the Apps and utilizing or accessing the Services, you agree to the Terms. Please read them carefully.
- 1.2 If you are under the legal age of maturity in your jurisdiction, then you must obtain permission from your parent or legal guardian to accept these Terms. By using the Services, you represent to us that you have obtained such consent.

2. **Changes to the Terms and Services**

- 2.1 Digital Masterpieces reserves the right to make changes to the Terms (the "Modified Terms"), at any time, for example to address changes to the law or regulatory changes or changes to functionalities offered through the Services. Therefore, you must look at the Terms regularly to check for such changes. The most recent Terms will always be available at: <https://www.digitalmasterpieces.com/app-terms-of-use/>. If you do not agree to the Modified Terms you must stop using the Service. Your continued use of the Service after the date the Modified Terms are posted, will constitute your acceptance of the Modified Terms.
- 2.2 We may, at any time, and without prior notice, change the features, scope, design, layout or availability of the Apps or any of the Services.

3. **Privacy**

We respect your privacy. Our privacy policy <https://www.digitalmasterpieces.com/app-privacy-policy/>, which shall be considered an integral part of these Terms, explains our privacy policies. Please read it carefully.

4. **Fee-based Services**

- 4.1 Certain of our Services may be provided upon the payment of a fee (one time or recurring). Amounts payable and the terms and conditions with respect to such payments shall be as set forth in the additional third party (a "Third Party") terms and conditions that govern the application marketplace (e.g. Apple's App Store) from which you downloaded the relevant App.
- 4.2 We may cooperate with commercial vendors to offer you goods or services. The goods and services are offered by the respective goods or service providers, are under their exclusive responsibility and we maintain no responsibility for such goods or services. If you encounter any problem with the goods or services, you will be required to contact the third party providers, not us.

4.3 For purposes of these Terms of Use, “Commercial Use” shall mean any use made by you of the Service for commercial purposes, including (a) the use of the Service to promote a business (including in social or traditional media) and (b) the use of the Service as a tool in your business (e.g. marketing; retouching artists; use for “before” and “after” images, etc.).

5. Prohibited Use of the Services

5.1 When using the Service you must refrain from:

- Breaching these Terms or any other applicable rules and instructions that we may convey with respect to the Service;
- Engaging in any activity that constitutes or encourages conduct that would constitute a criminal offense, give rise to civil liability or otherwise violate any applicable law, including laws governing privacy, defamation, spam and copyright;
- Interfering with, burdening or disrupting the functionality of the Service;
- Breaching security of the Service or publicly identifying any security vulnerabilities in it;
- Circumventing or manipulating the operation or functionality of the Service, or attempting to enable features or functionalities that are otherwise disabled, inaccessible or undocumented in the Service;
- Sending automated or machine generated queries;
- Using robots, crawlers and similar applications to collect and compile content from the Service or send data to the Service including for the purposes of competing with the Service, or in such ways that may impair or disrupt the Service's functionality;
- Displaying or embedding content into the Service, including by any software, feature, gadget or communication protocol, which alters the content or its design;
- Impersonating any person or entity, or making any false statement pertaining to your identity or affiliation with any person or entity;
- Collecting, harvesting, obtaining or processing personal information regarding the Service's users, without their prior explicit consent;

5.2 You are solely responsible for the content you make available through the Service and for the consequences associated with doing so.

6. Intellectual Property

6.1 All rights, title and interest in and to the Apps and the Services, including without limitation, patents, copyrights, trademarks, trade names, service marks, trade secrets and other intellectual property rights and any goodwill associated therewith, but excluding any content that originates from users, are the exclusive property of Digital Masterpieces and its licensors. This includes the Apps' design, graphics, computer code, “look and feel” and Digital Masterpieces' domain names.

6.2 You may not copy, distribute, display or perform publicly, make available to the public or communicate to the public, sublicense, decompile, disassemble, reduce to human readable form, execute publicly, make available to the public, adapt, make commercial use of, process, compile, translate, sell, lend, rent, reverse engineer, combine with other software, modify or create derivative works of the Apps or the services or any part thereof, in any way or by any means.

- 6.3 You may not use any name, mark, logo or domain name that is confusingly similar to our marks, logos and internet domain names. You must refrain from any action or omission that may dilute or damage our goodwill.
- 6.4 Your use of the Services is conditioned upon your agreement not to use the Services to infringe the intellectual property rights of others in any way. Digital Masterpieces, at its sole discretion, may terminate its engagement with any user who is suspected of infringing the copyrights, or other intellectual property rights, of others, or may, at its sole discretion, take other actions against such users. In addition, Digital Masterpieces may, at its discretion and in accordance with applicable laws, remove or disable access to any material claimed to be infringing or claimed to be the subject of infringing activity and to remove or disable access to any reference or link to material or activity that is claimed to be infringing.
- 6.5 Digital Masterpieces' agent for notice of claims of copyright or other intellectual property infringement can be reached as follows:
- By mail: Digital Masterpieces GmbH
August-Bebel-Str. 26-53
Potsdam, Germany 14482
- By email: mail@digitalmasterpieces.com

7. **Content**

- 7.1 You will be responsible for any and all content that originates from you and that you use with or through the Apps or the Services. You are solely responsible for the consequences of posting or publishing any content created, modified or otherwise used by you through the Apps or the Services. Digital Masterpieces does not endorse any such content and Digital Masterpieces expressly disclaims any and all liability in connection with such content.
- 7.2 You represent and warrant that you have (and will continue to have during your use of the Services) all necessary licenses, rights, consents, and permissions which are required with respect to the content used by you in conjunction with the Services and the Apps. You hereby warrant and represent that: (a) you are the sole owner of and/or hold all rights in and to your content; (b) there are no restrictions, limitations which prevent or restrict you from using such content in conjunction or through the Services or the Apps and (c) your content will not: (i) facilitate or 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, creed, age, sexual orientation, or disability; (iii) contain sexually suggestive or explicit content; (iv) infringe upon or violate any right of any third party; (v) disparage, defame, or discredit Digital Masterpieces or any third party; (vi) contain any viruses, worms, Trojan horses and other disabling or damaging codes; or (vii) otherwise contain content that violates any laws, rules, regulations or policies of any competent jurisdiction.
- 7.3 You agree that you will not post or upload any content which contains material which it is unlawful for you to possess in the country in which you are resident.
- 7.4 You agree that content you use with or in conjunction with the Services and the Apps will not contain any third party copyright material, or material that is subject to other third party proprietary rights (including rights of privacy or rights of publicity), unless you have a formal license or permission from the rightful owner, or are otherwise legally entitled to make such use of the content.

7.5 On becoming aware of any potential violation of these Terms, Digital Masterpieces reserves the right (but shall have no obligation) to decide whether your content complies with the requirements set out in these Terms and may remove such content and/or terminate your access for uploading or sharing content which is in violation of these Terms at any time, without prior notice and at its sole discretion.

8. Third Party Links

8.1 The Services may include hyperlinks to other web sites that are not owned or controlled by Digital Masterpieces. Digital Masterpieces has no control over, and assumes no responsibility for, the content, privacy policies, or practices of any third party websites.

8.2 You acknowledge and agree that Digital Masterpieces is not responsible for the availability of any such external sites or resources, and does not endorse any advertising, service or other materials on or available from such web sites or resources.

8.3 You acknowledge and agree that Digital Masterpieces is not liable for any loss or damage which may be incurred by you as a result of the availability of those external sites or resources, or as a result of any reliance placed by you on the completeness, accuracy or existence of any advertising, service or other materials on, or available from, such web sites or resources.

8.4 Digital Masterpieces encourages you to be aware when you leave the Service and to read the terms and conditions and privacy policy of each other website that you visit.

9. Term of Services

9.1 Subject to the provisions below, Digital Masterpieces shall continue to provide you the Service for as long as you are entitled to receive them pursuant to the Third Party Terms. You are aware that unless you terminate the Services according to the Third Party Terms, such terms (and the payment obligations therefor) may provide that the Services, and payment therefor, may "roll-over" for additional terms.

9.2 Digital Masterpieces may, in its sole discretion and at any time, terminate these Terms and stop providing the Service without liability, including if:

9.2.1 you have breached any provision of the Terms or have acted in manner which clearly shows that you do not intend to, or are unable to comply with the provisions of the Terms; or

9.2.2 Digital Masterpieces is required to do so by law (for example, where the provision of the Service to you is, or becomes, unlawful); or

9.2.3 the provision of the Service to you by Digital Masterpieces is, in Digital Masterpieces' opinion, no longer commercially viable.

10. Disclaimer of Warranty

The service is provided on an "as is" and "as available" basis, with all faults. We and our officers, directors, shareholders, employees, sub-contractors, agents and affiliates (the "Digital Masterpieces parties") disclaim all warranties and representations, either expressed or implied, with respect to the apps, the services, and all parts thereof, including, without limitation, any warranties of merchantability, and fitness for a particular purpose, quality, non-infringement, title, compatibility, performance, security, accuracy, enhanced goodwill or expected benefits.

We do not warrant that (a) the apps or the services will be uninterrupted, error-free or will meet your requirements or expectations in any way; (b) the apps or the services will always be available or free from malwares, computer viruses or other harmful components; (c) the quality of the services, will meet your expectations; (d) the free content or premium content presented through the app will be accurate, beneficial or reliable; (e) the results of the use of the service will be satisfactory and will fit your expectations or requirements.

No representation or other affirmation of fact, including statements regarding suitability for use or performance of the service, made by us or on our behalf, which is not expressly contained in these terms, shall be deemed to be a warranty for any purpose, or give rise to any liability whatsoever.

You agree and acknowledge that the use of the apps and the services is at your own risk.

11. Limitation of Liability

To the maximum extent permitted by applicable law, the Digital Masterpieces parties shall not be liable, for any indirect, special, punitive, exemplary, statutory, incidental or consequential damage, or any similar damage or loss (including loss of profit and loss of data), costs, expenses and payments, either in tort, contract, or in any other form or theory of liability, arising from, or in connection with the app, the use or the inability to use the apps, the services, the premium content or the free content or from any denial or cancelation of your user account, or from retention, deletion, disclosure and any other use or loss of your content on the apps.

In any event, to the maximum extent permitted by applicable law, the total, maximum and aggregate liability to you for direct damages shall be limited to half the fees you paid us (if any) in the twelve months preceding the event purportedly giving rise to the claim.

Notwithstanding anything herein to the contrary, we will be fully released from our obligations and liability to you if you have breached these terms, any other terms, rules or regulations applicable to the services, or if through your use of the services, you infringed or violated any other person's rights.

12. Indemnification

You will indemnify and hold harmless at your own expense, each of the Digital Masterpieces parties, from and against any damages, costs and expenses (including reasonable legal costs), resulting from any violation by you of any of these Terms, any illegal activity performed by you or on your behalf, or any violation by you of a third party's rights.

13. Application Marketplace

Your use of the Services may be subject to the Third Party Terms (as defined above). The Third Parties (as defined above) are not responsible for providing maintenance and support services with respect to the App.

The following terms apply if you downloaded the App from Apple's app store. You agree and acknowledge as follows:

- These terms are concluded between yourself and us, and not with Apple Inc. ("Apple"). Apple is not responsible for the App. In the event of a conflict between these Terms and Apple's app store terms of service then the app store terms of service will prevail, solely with respect to the conflicting provisions.
- The license granted to you for the App is limited to a non-transferrable license to use the App on any iOS products that you own or control, and as permitted by the usage rules set forth in the App Store terms of service, except that such App may be accessed, acquired, and used by other accounts associated with the purchaser via family sharing.

- In the event of a failure to conform to any applicable warranty (if any warranty is applicable), you may notify Apple, and Apple will refund the purchase price for the App to you (if you paid any). Apple has no other warranty obligation whatsoever with respect to the App, and any other claims, losses, liabilities, damages, costs or expenses attributable to any failure to conform to any warranty, will not be at Apple's responsibility.
- Apple is not responsible for addressing any claims by you or any third party relating to the App or your possession and/or use of the App, including (i) product liability claims, (ii) any claim that the App fails to conform to any applicable legal or regulatory requirement, and (iii) claims arising under consumer protection or similar legislation.
- In the event of any third party claim that the App or your possession and use of the App infringes that third party's intellectual property rights, Apple will not be responsible for the investigation, defense, settlement and discharge of any such infringement claim.
- You must comply with applicable third party terms of agreement when using the App (e.g. you must not be in violation of your wireless data services agreement when you use the App).
- Apple and Apple's subsidiaries are third party beneficiaries of these terms. Upon your acceptance of these Terms, Apple will have the right (and will be deemed to have accepted the right) to enforce these terms against you as a third party beneficiary thereof. You represent and warrant that (i) you are not located in a country that is subject to a U.S. government embargo, or that has been designated by the U.S. government as a "terrorist supporting" country; and (ii) you are not listed on any U.S. government list of prohibited or restricted parties.

14. **General Legal Terms**

- (a) **Entire Agreement.** These Terms constitute the entire agreement between you and Digital Masterpieces with respect to the use of the Apps and the Services and supersede all contemporaneous and prior agreements between us. You confirm that you have not relied on any representations made by Digital Masterpieces or any other third party on its behalf that are not expressly set forth in the Terms.
- (b) **Jurisdiction; Choice of Law; Export Limitations.** These Terms shall be governed by the laws of the Federal Republic of Germany without giving effect to any principles of conflicts of laws thereof.
- (c) **Compliance with Laws.** You are responsible for compliance with applicable local laws
- (d) **Severability.** If any part of the Terms is held by a court of competent jurisdiction to be invalid or unenforceable, the invalid or unenforceable part will be given effect to the greatest extent possible and the remainder will remain in full force and effect, provided that the allocation of risks described herein is given effect to the fullest extent possible.
- (e) **No Agency; Third Party Beneficiaries.** No agency, partnership, joint venture, employee-employer or franchisor-franchisee relationship is intended or created by these Terms. Neither of us intends that any third party will be a beneficiary of or entitled to rely on any part of these Terms.
- (f) **Paragraph Headings.** The paragraph headings in these Terms are included to help make these Terms easier to read and have no binding effect.
- (g) **Limitation on Actions.** Any action concerning any dispute you may have with respect to the Apps or the Services must be commenced within one year after the cause of the dispute arises, or the cause of action is barred.
- (h) **No Waiver.** The failure of Digital Masterpieces to exercise or enforce any right or provision of these Terms, including any failure to act with respect to a breach, will not constitute a waiver of such right or provision or Digital Masterpieces' right to act with respect to subsequent or similar breaches.

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