

Terms of use (version 1.0)

These general terms and conditions of contract are valid since January 1st, 2015.

\*\*\*\*\*

By accessing and/or by using Giphos.com site or every applications (including the mobile apps) available through Giphos (hereafter “the Service”), you accept these terms and conditions (“Terms”) and agree to these Terms. Giphos s.r.l.s. (hereafter “Giphos”) is the owner of the Service. If you do not agree to these Terms, you cannot have access to the Service.

\*\*\*\*\*

1. It is explicitly forbidden to upload photos that are offensive, violent, racist, discriminatory, pornographic, and nudity, even partial.
2. You are responsible for any activity performed by your account and explicitly agree to not selling, transfer, or assign your own account to third parties, with the exception of persons or companies that are unequivocally authorized to create an account on behalf of your own employer or customers.
3. You further declare that all the information provided at the registration is true, accurate, current and complete, and are committed to keeping up to date such information.
4. You are responsible for the custody and security of your access keys.
5. It is forbidden to use the Service for unlawful or unauthorized aims. You agree to comply with all laws, rules, and regulations applicable to the use of the Service, including copyright laws.
6. You are solely responsible for any breach of copyright of the photos uploaded to the server, for the contents thereof, and for the truthfulness of the information relating to the GPS coordinates or to the descriptions of the locations of the photos.
7. It is expressly forbidden to publish photos that may encourage other users to have the perception that Giphos may somehow be involved in the publication of that same image or in the content that draws the image.
8. It is expressly forbidden to publish photos of advertising or commercial content.
9. It is prohibited the conduct of those who send unsolicited e-mails or comments, which can be annoying (so-called "spam") to one or more users of Giphos.
10. It is forbidden the use of domain names or web URL inside the photos or as user name, without the prior written consent of Giphos.
11. You declare to be aware that interfering with or disrupting the Service, servers, networks connected to the Service, by transmitting worms, viruses, spyware, malware or any other code of this nature is a criminal offense.
12. You declare to be aware of the privacy legislation and that the inclusion of images or data of third parties, without authorization, could constitute an offense.

13. By accepting these Terms, you agree also the regulation of the Service (<http://www.giphos.com/regolamento>)

14. The violation of these Terms may result in the termination of your account on solely discretion of Giphos.

15. Giphos reserves the right to modify or discontinue the Service or the access to the Service, for any reason, without notice, at any time, and without liability to users. You can disable an account Giphos by accessing the service and following the procedure specified therein. In the event of service interruption or deactivation of an account, the photos will no longer be accessible through said account, but all the inserted contents and data can last and be displayed within the Service.

16. Giphos reserves the right, in its sole discretion, to modify these Terms each time. Unless legal or administrative changes are required, Giphos will provide reasonable notice before the updated Terms become effective. You agree to receive notifications about the update of the Terms through publication on the Service website and that the use of the Service after the effective date of the updated Terms constitutes acceptance of the same. The updated Terms will be effective from the date of issuance, or at any later date specified in the Terms, and will apply to the Service by that time.

17. Giphos reserves the right to refuse access to the Service to anyone for any reason at any time.

18. Giphos may, but has no obligation to, remove, edit, block, and/or monitor Content or accounts containing Content that Giphos determines in our sole discretion violates these Terms.

19. Giphos does not prearrange any control to the content inserted by the user. However Giphos during normal inspection activities, can detect the non-compliance of a content and block the publication.

20. You are solely responsible for your interaction with other users of the Service, whether online and offline. You agree that Giphos is not responsible or liable for the conduct of any user, nor for any false or incorrect information included in the website by other users. Giphos reserves the right, but has no obligation to, to monitor or participate in disputes between users.

21. You agree that the Service may also allow interactions with a third-party website. For example, the Service may include a feature allowing the user to share content from the Service with a third party. Using this functionality typically requires you to login to your own account on the third-party service and you do so at your own risk. You expressly acknowledge and agree that Giphos is in no way responsible or liable for any such third-party services or features.

22. Giphos does not claim ownership of any Content posted on or through the Service. Instead, you hereby grant to Giphos a non-exclusive, transferable, sub-licensable, worldwide license to use the Content that you post on or through the Service.

23. You also hereby grant to Giphos a non-exclusive right of dissemination, public communication, dissemination of photographs, as well as any right of economic exploitation of the work within the limits of the Rules of Use (Mode of Operation) of the Service. In particular, the user transfers the rights of the income generated by the exploitation of those works, limited to the intended uses described in the Rules of Use (Mode of Operation). A royalty will be always recognized to the user for each income related to the work, in the mode reported in the Rules of Use (Mode of Operation).

24. You agree that the content posted on the Service may be used in advertising or supported by advertising and promotions. You agree that Giphos may place such advertising in combination with the Content.

25. You represent and warrant that: (i) you own the rights of use and exploitation of the Content posted by you on the Service or otherwise have the right to grant the license set forth in these Terms, (ii) the posting and use of your Content on or through the Service does not violate the privacy rights, publicity rights, copyrights, contract rights, intellectual property rights or any other rights of any person, and (iii) the posting of your Content on the Site does not result in a breach of contract between you and a third party. You agree to pay for all royalties, fees, and any other monies owing any person by reason of Content you post on or through the Service.

26. The Giphos name and logo are trademarks of Giphos, and may not be copied, imitated or used, in whole or in part, without prior written permission of Giphos, except in accordance with our brand guidelines.

27. Brand guidelines: the Giphos brand (i) may be freely used by the press and information sites in general as image accompanying articles about Giphos; (ii) may be used by websites to create a link to the web page of the Service; (iii) may be used by users to create a link to their Giphos profile.

28. All page headers, custom graphics, button icons and scripts are service marks, trademarks and/or trade dress of Giphos, and may not be copied, imitated or used, without prior written Giphos.

29. Although it is Giphos's intention to provide a Service available as much as possible, there will be occasions when the Service may be interrupted, including, without limitation, for scheduled maintenance or upgrades, for emergency repairs, or due to failure of telecommunications links and/or equipment. You accept these circumstances.

30. Giphos reserves the right to remove any Content from the Service for any reason, without notice. Content removed from the Service may continue to be stored by Giphos, including, without limitation, in order to comply with certain legal obligations, but may not be retrievable without a valid court order. Consequently, Giphos encourages and recommends you to maintain your own backup of your content. Giphos will not be liable to you for any modification, suspension, or discontinuation of the Service, or the loss of any Content. Furthermore, you acknowledge that the Internet may be subject to breaches of security and that the submission of Content or other information may not be secure. Giphos will undertake all the security measures necessary to ensure the greatest achievable security of its servers, in compliance with the law.

31. Giphos may never be held responsible for failure to photograph marking by the author. This practice, if desired, must be affixed by the author before uploading images on the Service.

32. The license has an unlimited duration and may not be revoked for not affecting the rights of third parties on the Contents and information purchased from such third parties and related to the same works.

33. Under no circumstances will the Giphos parties be liable to you for any loss or damage of any kind (including, without limitation, damages for loss of profits, loss of goodwill, loss of data, injury, consequential damages, lost of profits, loss of business opportunity, infringement of rights) that are directly or indirectly related to: (a) the Service; (b) the Giphos Content; (c) the user Content; (d) your use of, inability to use, or the performance of the Service; (e) any action taken in connection with an investigation by the Giphos parties or law enforcement authorities; (f) infringement of copyright or intellectual property rights; (g) any errors or omissions in the Service operation; (h)

any damage to any user's computers, mobile devices, or other equipment or technology including, without limitation, damage from any security breach or from any virus, bugs, tampering, fraud, error, omission, interruption, defect, delay in operation or transmission, computer line or network failures or any other technical malfunction.

34. Some States do not allow the exclusion or limitation of incidental or consequential damages, so the above limitation or exclusion may not apply to you. In no event will the Giphos parties total liability to you for all damages, losses or causes of action exceed € 100.00 (one hundred euro).

35. You further acknowledge and agree that in the event of termination of your account, Giphos has the right to maintain online your Content, without infringement of your authorship rights. In this case Giphos will continue to sell related services, putting aside, however, your money due.

36. You acknowledge and agree that there is a minimum threshold of monies due paid off for the sale of services. This minimum is set out in the Mode of Operation, which you approve at the same time of these Terms.

37. You (and also any third party for whom you operate an account or activity on the Service) agree to defend (at Giphos' request), indemnify and hold the Giphos parties harmless from and against any claims, liabilities, damages, losses, and expenses, including without limitation, reasonable attorney's fees and costs, arising out of or in any way connected with any of the following (including as a result of your direct activities on the Service or those conducted on your behalf): (i) your Content or your access to or use of the Service; (ii) your breach or alleged breach of these Terms of Use; (iii) your violation of any third-party right, including without limitation, any intellectual and industrial property right, publicity, confidentiality, property or privacy rights; (iv) your violation of any laws, rules, regulations, codes, statutes, ordinances or orders of any governmental and quasi-governmental authorities, including, without limitation, all regulatory, administrative and legislative authorities; (v) any misrepresentation made by you. In such cases, you agree to indemnify Giphos from any cost or expense, including legal fees.

38. Giphos may, but have no obligation to, remove the Content posted by users, including feedback. You may make a report to Giphos if you recognize the extremity of illegality in content or feedback. Giphos will warn the competent public authorities as required by law. Giphos is required to remove content only with an order of a public authority.

39. These terms of use are written and interpreted in accordance with the laws of the Italian State.

40. You agree that the sole jurisdiction for the resolution of disputes arising from this contract is the Italian court.

41. The competent court for any dispute arising from this contract is the court of Siena (Italy).

42. This website uses session cookies, permanent cookies, and tracking cookies. You accept and agree to use cookies in accordance with applicable laws.

43. If any provision of these Terms is held to be unlawful, void, or for any reason unenforceable by a court of competent jurisdiction, the parties agree that the part will be deemed severable from these Terms and will not affect the validity and enforceability of any remaining provisions.

44. If you are using the Service on behalf of a legal entity, you represent that you are authorized to enter into an agreement on behalf of that legal entity.

\*\*\*\*\*

## **According to the Informative report (art. 13 Italian Legal Decree n. 196/2003)**

Dear User,

We would like to inform you that the Italian Legal Decree n. 196 dated June 30th, 2003 (Code for the protection of personal information), protects persons and other subjects regarding the processing of personal data.

According to the law, the processing of personal data will be used in accordance with the principles of correctness, lawfulness, transparency and protection of your privacy and your rights.

Therefore, according to article 13 of the law n. 196/2003, we provide the following information:

1. The information you provide will be used in order to give effect to the contract signed with Giphos.
2. The data will be processed electronically.
3. The provision of data is required, because the data are needed to supply the provided services, for any payment, and to fulfill the liability law obligations. Any refusal to provide such data involves the failure or partial execution of the contract.
4. The data will not be disclosed to other parties and will not be circulated.
5. Only in the event of your express permission, Giphos will send newsletters and advertising material for its own products and third party products.
6. The data controller is Giphos S.r.l.s - Loc. Drove, 14 int. A/303 - 53036 Poggibonsi, Siena (Italy).
7. You can exercise your rights against the data controller, under Article 7 of Legal Decree n. 196/2003, which for your convenience we fully report:

Legal Decree n. 196/2003

Art. 7 - Right of access to personal data and other rights

1. The person concerned has the right to receive confirmation of the existence, or non existence, of his/her personal data, even if not yet recorded, and their communication in intelligible form.
2. The person concerned has the right to receive information as to the:
  - a) origin of the personal data;
  - b) purposes and processing methods;
  - c) the logic applied in case of treatment with the help of electronic means;
  - d) the identity of the owner, manager, and representative appointed under article 5, paragraph 2;
  - e) the subjects or categories of subjects to whom the personal data may be communicated or who may learn about them as appointed representative in the State, managers or agents.
3. The person concerned has the right to obtain:

- a) the update, amendment or, when required, the adjustment of the data;
- b) the cancellation, anonymization or blocking of data processed unlawfully, including data which do not need to be kept for the purposes for which the data were collected or subsequently processed;
- c) a certification that the operations in letters a) and b) have been notified, as also related to their contents, to those to whom the data were communicated or disseminated, except where such compliance is impossible or involves the use of means manifestly disproportionate to the right being protected.

4. The person concerned has the right to object, totally or partly, to:

- a) the processing of his/her personal data, for legitimate reasons, even if pertinent to the collection;
- b) the processing of his/her personal data for the purposes of sending advertising material or direct sales, market research or commercial communications.