

Phötage End User License Agreement

This End User License Agreement ("Agreement") applies to the smartphone application **Phötage** ("Application") provided by Phötage LLC (sometimes referred to as "Phötage"). This Agreement is a legal agreement between you and Phötage LLC. As used herein, the term "us", "we" or "our" means Phötage LLC. **THIS AGREEMENT AFFECTS YOUR LEGAL RIGHTS AND OBLIGATIONS. IF YOU DO NOT AGREE TO BE BOUND BY THIS ENTIRE AGREEMENT, DO NOT ACCESS OR USE THE APPLICATION.**

ARBITRATION NOTICE: EXCEPT IF YOU OPT-OUT, YOU AGREE THAT DISPUTES BETWEEN YOU AND PHÖTAGE LLC WILL BE RESOLVED BY BINDING, INDIVIDUAL ARBITRATION AND YOU WAIVE YOUR RIGHT TO PARTICIPATE IN A CLASS ACTION LAWSUIT OR CLASS-WIDE ARBITRATION.

1. Acceptance of Terms and Conditions

By installing, copying, or otherwise using the Application, you agree to be bound by the terms of this Agreement as follows:

(a) You understand and intend that this Agreement is a legally binding agreement and the equivalent of a signed, written contract;

(b) You will use the Application in a manner consistent with applicable laws and regulations and in accordance with the terms and conditions in this Agreement as it may be amended by Phötage LLC from time to time; and

(c) You understand, accept, and have received this Agreement and its terms and conditions, and acknowledge and demonstrate that you can access this Agreement.

IF YOU DO NOT AGREE WITH ALL THE TERMS, CONDITIONS AND REQUIREMENTS IN THIS AGREEMENT, DISCONTINUE ALL FURTHER USE OF THE APPLICATION.

2. Ownership of Application

Phötage LLC owns all right, title, and interest in and to the Application. No license or other right in or to the Application is granted to you except as for the rights specifically set forth in this Agreement.

3. Grant of License to You

Phötage LLC hereby grants you a single, non-exclusive, non-transferable, revocable, limited personal license to install, use and access the application for your personal use. If you are using the Application on an iPhone, iPod, iPad or some other Apple device ("Apple Devices"), then this non-exclusive, non-transferable, revocable, limited personal license to install, use and access the application for your personal use is further restricted for use only on Apple Devices that you own or control and as permitted by the usage rules set forth in Apple's

App Store Terms of Service. This license is conditioned on your continued compliance with the terms and conditions in this Agreement. You may not, and will not allow or cause any third party to (except as and only to the extent that any of the following restrictions are prohibited by applicable law or the extent as may be permitted by the licensing terms governing use of any open sourced components included with the application):

- (a) Copy, Decompile, reverse engineer, disassemble, attempt to derive the source code of, modify, or create derivative works of the Application, any updates, or any part thereof or use the Application to develop functionally similar applications;
- (b) Copy the Application, except as expressly permitted by this Agreement;
- (c) Sublicense, distribute, export, resell, rent, lease, lend, redistribute, or sell the Application or otherwise transfer any rights in the Application and, if you sell or otherwise transfer the device on which the application is installed to a third party, you must remove the Application from such device before doing so;
- (d) Remove any proprietary or intellectual property rights notices or labels on the Application;
- (e) Use the Application for illegal purposes or violate any federal, state or local statute, law, or regulation; or
- (f) Otherwise exercise any other right to the Application not expressly granted in this Agreement

4. License You Grant

Although it is Phötage LLC's policy not to accept or consider content, information, ideas, suggestions, communications or materials of any kind (your "Communications"), if, despite our policy you choose to email, post, or otherwise transmit to Phötage LLC your Communications, including data, questions, comments, or suggestions, your Communications will become the property of Phötage LLC . You hereby grant a license to Phötage LLC to use any content, ideas, suggestions, concepts, know-how, or techniques contained in your Communications for any purpose whatsoever, including, but not limited to, developing and marketing products and services using such information without any liability or payment of any kind to you.

Any Content (defined below) you upload to the Application will remain your property and Phötage LLC does not claim ownership over your Content. Instead, you hereby grant a license to Phötage LLC to use the images you upload to the application for the purpose of marketing or advertising the Application or any of its related or associated products. Further, if you choose to "share" your images ("Shared Images") with a third person(s) or with a social media app through the Application, you hereby grant Phötage LLC and Phötage LLC 's associated service providers a license to use your Shared Images to print, collage, ship, and/or transfer the Shared Images to the third person(s) and to post your Shared Images in social media.

5. Basic Terms

The license granted to you is specifically conditioned on your acceptance of the following basic terms. Please review this entire Agreement

- (a) You must be at least 13 years old to use the Application.
- (b) You represent and warrant that (i) You are not located in a country that is subject to a United States Government embargo, or that has been designated by the United States Government as a “terrorist supporting” country; and (ii) You are not listed on any United States Government list of prohibited or restricted parties.
- (c) You may not use the Application for any illegal or unauthorized purpose. You agree to comply with all laws, rules and regulations (for example, federal, state, local and provincial) applicable to your use of the Application and your Content (defined below) including but not limited to, copyright laws.
- (d) YOU ASSUME ANY LIABILITY THAT MAY ARISE BECAUSE OF YOUR CONTENT.
- (e) You are responsible for any activity that occurs through your account. You represent that all information you provide or provided to Phötage LLC upon registration and at all other times will be true, accurate, current, and complete and you agree to update your information as necessary to maintain its truth and accuracy.
- (f) You are solely responsible for your conduct and any data, text, files, information, usernames, images, graphics, photos, profiles, works of authorship, applications, links and other content or materials (collectively, “Content”) that you submit or print via the Service.
- (g) You agree that you are responsible for all data charges you incur through use of the Application.
- (h) You are responsible for keeping your password secret and secure
- (i) You must not defame, stalk, bully, abuse, harass, threaten, or intimidate people or entities using the Application.
- (j) You must not change, modify, adapt or alter the Application or change, modify or alter another website so as to falsely imply that it is associated with the Application or Phötage LLC.
- (k) You must not interfere or disrupt the Application or servers or networks connected to the Application, including by transmitting any worms, viruses, spyware, malware or any other code of a destructive or disruptive nature. You

may not inject content or code or otherwise alter or interfere with the way the Application page is rendered or displayed in a user's browser or device.

- (l) You must not attempt to restrict another user from using or enjoying the Application and you must not encourage or facilitate any violations of this End User License Agreement or any other Phötage LLC terms.
- (m) You must not create accounts with the Application through unauthorized means, including but not limited to, by using an automated device, script, bot, spider, crawler, or scraper.
- (n) Violation of this Agreement may, in Phötage LLC's sole discretion, result in termination of your Phötage account.
- (o) You understand and agree that Phötage LLC cannot and will not be responsible for the Content submitted or printed through the Application and you use the Application at your own risk.
- (p) You understand that Phötage LLC does not and will not review any content you submit or post through the Application. As a result, Phötage LLC has no responsibility to review your posts for compliance with any laws or regulations, including Intellectual Property laws and Phötage LLC does not incur any liability arising out of your use of the Application or arising out of any content you submit or publish through the Application.
- (q) You understand that it is your responsibility to ensure compliance with the law at all times.
- (r) If you violate the letter or spirit of this Agreement or otherwise create risk or possible legal exposure for Phötage LLC, we can stop providing all or part of the Application to you.

6. General Conditions

- (a) We reserve the right to refuse access to the Application to anyone for any reason at any time.
- (b) We reserve the right to force forfeiture of any account or username for any reason.
- (c) We may, but have no obligation to remove, edit, block, and/or monitor Content or accounts submitting or printing Content that we determine in our sole discretion violates this Agreement.
- (d) You agree that you are responsible for all data charges you incur through use of the Application.

- (e) You are solely responsible for your interactions with third persons using the Application, whether online or offline. You agree that Phötage LLC is not responsible or liable for the conduct of any user. Phötage LLC reserves the right, but has no obligation, to monitor or become involved in disputes between you and other users. Exercise common sense and your best judgment when interacting with others, including when you submit or share Content or any personal or other information.
- (f) There may be links to third-party web-sites or features within the Application. The Application may also include third-party content that we do not control, maintain or endorse. Functionality on the Application may also permit interactions between the Application and a third-party web-site or feature, including applications that connect the Application, your account, and portions of your Content with a third-party web-site or feature. For example, the Application allows you to share your Content with a third-party, which, if you share, may be publicly posted on that third party's web-site or application. Further functionality on the Application may permit interactions between you and third-persons through the Application and that such third-persons may obtain access to your Content if you choose to share your Content with those third-persons. Phötage LLC does not control any of these third-party web-services or any of their content and does not control any other third-persons you may interact with through the Application. You expressly acknowledge and agree that Phötage LLC is in no way responsible or liable for any such third-party services or features or liable for the actions of any other third-persons. ALL CORRESPONDENCE OR AGREEMENTS WITH THIRD PARTIES THROUGH THE APPLICATION ARE SOLELY BETWEEN YOU AND THE THIRD PARTY. By interacting with third parties through the Application you acknowledge and agree that (i) by interacting with third-parties and sharing your Content, you are consenting to your Content being shared; (ii) your interaction with the third party may cause your personally identifying information and Content to be publicly disclosed and/or associated with you; and (iii) your interactions with any third parties is at your own option and risk and you will hold Phötage LLC and its members, directors, officers, employees, attorneys, successors and predecessors, and administrators harmless for activity related to your interactions with third-parties through the Application.
- (g) We prohibit crawling, scraping, caching or otherwise accessing any content on the Application via automated means (except as may be the result of standard search engine protocols or technologies used by a search engine with Phötage LLC's express consent)
- (h) Some of the Application may be supported by advertising revenue and may display advertisements and promotions, and you hereby agree that Phötage LLC may place such advertising and promotions on the Application or on, about, or in

conjunction with your Content. The manner, mode and extent of such advertising and promotions are subject to change without specific notice to you.

- (i) You acknowledge that we may not always identify services, sponsored content, or commercial communications as such.
- (j) You acknowledge that there will be occasions when access to and use of the Application may be interrupted, including but not limited to, for scheduled maintenance or upgrades, for emergency repairs, or due to failure of telecommunications links and/or equipment. You further acknowledge that Apple has no obligation whatsoever to furnish any maintenance and support services with respect to the Application.
- (k) You acknowledge that the Application is not a backup service and you agree that you will not rely on the Application for the purpose of backing-up or storing Content.
- (l) You acknowledge that this Agreement is solely between you and Phötage LLC and NOT with Apple and that Apple is in no way responsible for the Application and any of its content.

7. Your Representations

- (a) You represent and warrant that:
 - (i) You own the Content the Content submitted by you on or through the Application, or are authorized to use or otherwise have the right to grant the rights and licenses set forth in this Agreement.
 - (ii) Submitting or printing your Content on or through the Application does not violate, misappropriate or infringe on the rights of any third party, including, without limitation, privacy rights, publicity rights, copyrights, trademark and/or other intellectual property rights;
 - (iii) You agree to pay for all royalties, fees, and any other monies owed by you or Phötage LLC because of Content you submit to or print through the Application;
 - (iv) Your access to or use of the Application and your activities on the Application are lawful in every jurisdiction where you access or use the Application;
 - (v) You have carefully read and understood Section 15 (Disclaimer of Warranty), Section 16 (Limitation of Liability; Waiver) and Section 21 (Geographic Restrictions) of this Agreement and you expressly agree

to the provisions contained in Section 15, Section 16, and Section 21 of this Agreement;

- (vi) If you are using the Application on behalf of a legal entity, you represent and warrant that you are authorized to enter into an agreement on behalf of that legal entity; and
- (vii) You have the legal right and capacity to enter into this Agreement in your jurisdiction.

8. Security of Data Transmission and Storage

Electronic communications using the Application may not always be encrypted. You acknowledge that there is a risk that data, including email, electronic communications, and personal data, may be accessed by unauthorized third parties when communicated between you and Phötage LLC or between you and other parties. You also acknowledge that the internet and mobile phone networks may be subject to breaches of security and that the submission of Content or other information may not be secure. As between you and Phötage LLC, any Content will be non-confidential and non-proprietary and Phötage LLC will not be liable for any use or disclosure of Content.

You acknowledge and agree that your relationship with Phötage LLC is not a confidential, fiduciary, or other type of special relationship, and your decision to submit any Content does not place Phötage LLC in a position different from that held by members of the general public, including with regard to your Content. None of your Content will be subject to any obligation of confidence on the part of Phötage LLC, and Phötage LLC will not be liable for any use or disclosure of any Content you provide.

Phötage LLC and its affiliates, and agents are permitted, but not obligated, to review or retain your Communications. Phötage LLC may monitor your Communications to evaluate the quality of service you receive, your compliance with the Agreement, the security of the Application, or for other reasons. You agree that such monitoring activities will not entitle you to any cause of action or other right with respect to the manner in which Phötage LLC or its affiliates or agents monitor your Communications and enforces or fails to enforce the terms of the Agreement. In no event will Phötage LLC or any of its affiliates or agents be liable for any costs, damages, expenses, or any other liabilities incurred by you as a result of monitoring activities by Phötage LLC or its affiliates or agents.

9. Consent to Use of Data

You agree that Phötage LLC may collect and use technical data and related information, including but not limited to technical information about your device, system and application software and peripherals, that is gathered periodically to facilitate the provision of software updates, product support, fraud prevention and other services to you (if any) related to

the Application. Phötage LLC may also use this information for marketing purposes, to improve its products or to provide services or technologies to you.

10. Hyperlinks

The Application may contain links to other sites. Phötage LLC does not control such other sites, and Phötage LLC and its affiliates and agents make no representations whatsoever concerning the content, accuracy, security or privacy of those sites. The fact that Phötage LLC has provided a link to a site is not an endorsement, authorization, sponsorship, or affiliation with respect to such site, its owners or its providers. There are risks in using any information, software, or products found on the Internet, and Phötage LLC cautions you to make sure you understand these risks before retrieving, using, relying upon, or purchasing anything via the Internet. You agree that under no circumstances will you hold Phötage LLC or its affiliates or agents liable for any loss or damage caused by use of or reliance on any content, goods, or services available on other sites.

11. Trademarks and Copyrights

The Application is owned Phötage LLC and contains content, including images, owned or licensed by Phötage LLC (“Phötage Content”). Phötage Content is protected by copyright, trademark, patent, trade secret and other laws, and, as between you and Phötage LLC, Phötage LLC owns and retains all rights in the Phötage Content and the Application. Nothing contained in the Application should be construed as granting, by implication, estoppel, or otherwise, any license or right to use any trademark displayed in the Application without the written permission of Phötage LLC or such third party that may own the trademarks displayed in the Application. You may not remove, alter or conceal any copyright, trademark, service mark or other proprietary rights notices incorporated in or accompanying the Phötage Content and you may not reproduce, modify, adapt, prepare derivative works based on, perform, display, publish, distribute, transmit, broadcast, sell, license, or otherwise exploit the Phötage Content. Except as provided herein, your use of the trademarks displayed in the Application or any of the Phötage Content is strictly prohibited.

Except for images uploaded by you, images displayed through the Application are either the property of, or used with permission by, Phötage LLC or its affiliates or agents. You are prohibited from using or authorizing the use of these images unless specifically permitted under the Agreement. Any unauthorized use of the images may violate copyright laws, trademark laws, the laws of privacy and publicity, or other regulations and statutes.

The Phötage LLC name and logo are trademarks of Phötage LLC, and may not be copied, imitated or used, in whole or in part, without the prior written consent of Phötage LLC. In addition, all page headers, custom graphics, button icons and scripts are service marks, trademarks and/or trade dress of Phötage LLC and may not be copied, imitated or used, in whole or in part, without Phötage LLC’s prior written consent.

PHÖTAGE LLC RESPECTS OTHER PEOPLE'S RIGHTS AND EXPECTS YOU TO DO THE SAME. YOU ARE EXPRESSLY PROHIBITED FROM SUBMITTING OR PRINTING ANY CONTENT THAT DOES OR WOULD INFRINGE ON ANY INTELLECTUAL PROPERTY RIGHTS IF SUBMITTED OR PRINTED USING THE APPLICATION.

You and Phötage LLC acknowledge that in the event of any third party claim that the Application or Your possession and use of the Application infringes on that third party's intellectual property rights then Phötage LLC, and NOT Apple, will be solely responsible, in Phötage LLC's sole discretion, for the investigation, defense, settlement and discharge of an such intellectual property infringement claim.

12. Termination

This Agreement is valid until terminated by you or Phötage LLC. Phötage LLC may terminate this License at any time or for any reason. Your rights under this License will terminate immediately if you breach any term of this Agreement. Upon termination of this Agreement, all licenses and other rights granted to you in this Agreement will immediately cease and you shall immediately discontinue use of the Application and delete all copies of the Application.

If we terminate your access to the Application or you deactivate your account, your data will no longer be accessible through your account, but those materials and data you have shared with third parties through your account may persist with those third parties.

13. Changes to this Agreement

Phötage LLC reserves the right to amend or change this Agreement from time to time, in its sole discretion. Upon modification, Phötage LLC will update the date indicated after the phrase "Last Updated" at the top of this document, located in the main menu of the Application under "Terms and Conditions" or on Phötage LLC's website at www.photageit.com/terms, which shall be the Effective Date of the changes. Except for changes made for legal or administrative reasons, we will provide reasonable advance notice before any changes to this Agreement become effective. You agree that we may notify you of the changes to this Agreement by posting them to the Application, and your use of the Application after the changes to this Agreement become effective constitutes your agreement to the changes. Please access and review this Agreement regularly. If you find the Agreement unacceptable to you at any time, please discontinue your use of the Application. Your continued use of the Application after the Effective Date of any changes to this Agreement will constitute your agreement to and acceptance of those changes.

14. Application Upgrades

You acknowledge that we may from time to time issue upgraded versions of the Application, and we may automatically electronically upgrade the version of the Application on

your device. You consent to such automatic upgrade and agree that this license will apply to all such upgrades (unless such upgrade is accompanied by a different set of terms). Also, from time to time, without prior notice to you, we may change, expand or improve the Application. We may also, at any time, discontinue part or all of the Application or selectively disable certain aspects of or access to portions of the Application. Phötage LLC will not be liable to you for any modification, suspension, or discontinuation of the Application or any part of the Application, or the loss of any Content. Any modification or elimination of the Application will be done in our sole discretion and without any obligation or liability to you. In any event, Apple has no obligation whatsoever to furnish and maintenance and support services with respect to the Application.

15. Disclaimer of Warranty

YOU UNDERSTAND AND AGREE YOUR USE OF THE APPLICATION IS ENTIRELY AT YOUR SOLE RISK. YOU FURTHER UNDERSTAND AND AGREE THE APPLICATION IS PROVIDED BY PHÖTAGE LLC ON AN "AS IS" BASIS WITHOUT WARRANTY OF ANY KIND, AND LICENCOR EXPRESSLY DISCLAIMS ALL WARRANTIES AND CONDITIONS OF ANY KIND, WHETHER STATUTORY, EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO THE IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, NON-INFRINGEMENT, TITLE, CUSTOM, TRADE, QUIET ENJOYMENT, SYSTEM INTEGRATION AND FREEDOM FROM COMPUTER VIRUS. PHÖTAGE LLC MAKES NO REPRESENTATIONS, WARRANTIES, OR ENDORSEMENTS OR ANY KIND WHATSOEVER, EXPRESS OR IMPLIED, THAT (i) THE APPLICATION, THE FUNCTIONS CONTAINED THEREIN, THE CONTENT CONTAINED THEREIN, OR THE SERVICES PERFORMED OR PROVIDED BY THE APPLICATION WILL MEET YOUR REQUIREMENTS, (ii) THAT PHÖTAGE LLC WILL NOT INTERFERE WITH YOUR ENJOYMENT OF THE APPLICATION, (iii) THAT OPERATION OF THE APPLICATION WILL BE UNINTERRUPTED, TIMELY, SECURE, OR ERROR-FREE, OR THAT PHÖTAGE LLC WILL CORRECT DEFECTS; (iv) THE RESULTS THAT MAY BE OBTAINED FROM THE USE OF THE APPLICATION WILL BE ACCURATE OR RELIABLE; (v) SECURITY ASSOCIATED WITH THE TRANSMISSION OF INFORMATION TO PHÖTAGE LLC OR VIA THE APPLICATION WILL BE SECURE; OR (vi) INFORMATION, INCLUDING ANY INSTRUCTIONS, ON THE APPLICATION ARE ACCURATE, COMPLETE, OR USEFUL. NO ADVICE OR INFORMATION, WHETHER ORAL OR WRITTEN, OBTAINED BY YOU FROM PHÖTAGE LLC, OR THROUGH THE APPLICATION SHALL CREATE ANY WARRANTY REGARDING THE APPLICATION NOT EXPRESSLY STATED IN THIS AGREEMENT.

YOU ACKNOWLEDGE THAT YOUR USE OF THE APPLICATION IS AT YOUR SOLE RISK. PHÖTAGE LLC AND ITS MEMBERS, MANAGER, DIRECTORS, OFFICERS, EMPLOYEES AND AGENTS ("ASSOCIATED PARTIES") DO NOT WARRANT THAT YOUR USE OF THE SERVICE IS LAWFUL IN ANY PARTICULAR JURISDICTION, AND

PHÖTAGE LLC AND ITS ASSOCIATED PARTIES SPECIFICALLY DISCLAIM ANY SUCH WARRANTIES.

BY ACCESSING OR USING THE APPLICATION YOU REPRESENT AND WARRANT THAT YOUR ACTIVITES ARE LAWFUL IN EVERY JURISDICTION WHERE YOU ACCESS OR USE THE SERVICE.

PHÖTAGE LLC AND ITS ASSOCIATED PARTIES DO NOT ENDORSE CONTENT AND SPECIFICALLY DISCLAIM ANY RESPONSIBILITY OR LIABILITY TO ANY PERSON OR ENTITY FOR ANY LOSS, DAMAGE (WHETHER ACTUAL, CONSEQUENTIAL, PUNITIVE OR OTHERWISE, INJURY, CLAIM, LIABILITY OR OTHER CAUSE OF ANY KIND OR CHARACTER BASED UPON OR RESULTING FROM OR RELATED TO ANY CONTENT.

PHÖTAGE LLC HAS SPECIFICALLY DISCLAIMED ALL WARRANTIES, HOWEVER IF IT IS DEEMED THAT PHÖTAGE LLC BREACHED SOME WARRANTY OR THAT SOME WARRANTY WAS NOT SUCCESSFULLY DISCLAIMED OR IS NOT ABLE TO BE DISCLAIMED BY LAW, THEN PHÖTAGE LLC IS SOLELY RESPONSIBLE FOR SUCH WARRANTY TO THE EXTENT THE WARRANTY WAS NOT SUCCESSFULLY DISCLAIMED. IN THE EVENT SOME WARRANTY WAS NOT SUCCESSFULLY DISCLAIMED AND THE APPLICATION DOES NOT CONFORM TO THE UNSUCCESSFULLY DISCLAIMED WARRANTY, THEN YOU MAY NOTIFY APPLE, AND APPLE WILL REFUND THE PURCHASE PRICE FOR THE APPLICATION TO YOU; AND, TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, APPLE WILL HAVE NO OTHER WARRANTY OBLIGATION WHATSOEVER WITH RESPECT TO THE APPLICATION, AND ANY OTHER CLAIMS, LOSSES, LIABILITIES, DAMAGES, COSTS OR EXPENSES ATTRIBUTABLE TO ANY FAILURE TO CONFORM TO ANY WARRANTY WILL BE PHÖTAGE LLC'S RESPONSIBILITY TO THE EXTENT SUCH WARRANTY WAS NOT SUCCESSFULLY DISCLAIMED.

16. Limitation of Liability; Waiver

TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, YOU EXPRESSLY UNDERSTAND AND AGREE THAT PHÖTAGE LLC AND ITS ASSOCIATED SERVICE PROVIDERS SHALL NOT BE LIABLE FOR ANY LOSS, DAMAGE, OR INJURY OR FOR ANY DIRECT, INDIRECT, INCIDENTAL, SPECIAL, CONSEQUENTIAL OR EXEMPLARY DAMAGES, INCLUDING BUT NOT LIMITED TO, DAMAGES, LIABILITIES OR LOSSES FOR LOSS OF PROFITS, GOODS, GOODWILL, USE, DATA OR OTHER INTANGIBLE LOSSES (EVEN IF SUCH DAMAGES ARE FORESEEABLE, PHÖTAGE LLC HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES, OR PHÖTAGE LLC SHOULD HAVE KNOWN OF THE POSSIBILITY OF SUCH DAMAGES AND WHETHER THE DAMAGES RESULT FROM CONTRACT, NEGLIGENCE, STRICT LIABILITY OR TORT, INCLUDING, WITHOUT LIMITATION, WHETHER CAUSED IN WHOLE OR IN PART BY NEGLIGENCE, ACTS OF GOD, TELECOMMUNICATIONS FAILURE, OR

THEFT OR DESTRUCTION OF THE APPLICATION) (“LOSSES”), RESULTING FROM (i) THE USE OR THE INABILITY TO USE THE APPLICATION, (ii) THE CONTENT ON OR IN THE APPLICATION, (iii) ANY ACTION TAKEN IN CONNECTION WITH ANY INVESTIGATION BY PHÖTAGE LLC OR ITS ASSOCIATED PARTIES OR LAW ENFORCEMENT AUTHORITES REGARDING YOUR OR ANY OTHER THIRD PARTY’S USE OF THE APPLICATION, (iv) ANY ACTION TAKEN IN CONNECTION WITH COPYRIGHT OR OTHER INTELLECTUAL PROPERTY OWNERS, (iv) ANY ERRORS OR OMISSIONS IN THE APPLICATION’S OPERATION, (vi) ANY DAMAGE TO ANY USER’S COMPUTER, MOBILE DEVICE, OR OTHER EQUIPMENT OR TECHNOLOGY INCLUDING, BUT NOT LIMITED TO, 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 FAILURE OR ANY OTHER TECHNICAL OR OTHER MALFUNCTION, (vii) ANY OTHER MATTER RELATING TO THE APPLICATION AND/OR THE INSTALLATION OR MAINTENANCE THEREOF, FAILURE OF ELECTRONIC OR MECHANICAL EQUIPMENT, ERRORS, CONFIGURATION OR INCOMPATIBILITY PROBLEMS, PROBLEMS OR DELAYS WITH INTERMEDIATE COMPUTER OR COMMUNICATIONS NETWORKS, (viii) PRODUCT LIABILITY CLAIMS, (ix) ANY CLAIM THAT THE APPLICATION FAILS TO CONFORM TO ANY APPLICABLE LEGAL OR REGULATORY REQUIREMENT, OR (x) CLAIMS ARISING UNDER CONSUMER PROTECTION OR SIMILAR LEGISLATION. YOU FURTHER EXPRESSLY UNDERSTAND AND AGREE THAT PHÖTAGE LLC AND ITS ASSOCIATED SERVICE PROVIDERS SHALL NOT BE LIABLE FOR ANY LOSSES YOU EXPERIENCE DUE TO CAUSES BEYOND PHÖTAGE LLC ’S CONTROL. IN NO EVENT WILL APPLE BE RESPONSIBLE FOR ANY CLAIMS WHATSOEVER FROM YOU OR ANY THIRD PARTY RELATING TO THE APPLICATION OR YOUR POSSESSION AND/OR USE OF THE APPLICATION DUE TO ANY PRODUCT LIABILITY CLAIMS, ANY CLAIM THAT THE APPLICATION FAILS TO CONFORM TO ANY APPLICABLE LEGAL OR REGULATORY REQUIREMENT AND ANY CLAIMS ARISING UNDER CONSUMER PROTECTION OR SIMILAR LEGISLATION, WHICH SHALL ALL BE RESOLVED EXCLUSIVELY BETWEEN YOU AND PHÖTAGE LLC PURSUANT TO THE TERMS OF THIS AGREEMENT.

IN THE EVENT ANY PORTION OF THIS SECTION IS DEEMED UNENFORCEABLE BY LAW, THEN SUCH PROVISION WILL BE ENFORCED TO THE MAXIMUM EXTENT ALLOWED BY LAW AND NO OTHER PROVISION OF THIS SECTION WILL BE AFFECTED BY THE UNENFORCEABILITY OF ANY OTHER PROVISION IN THIS SECTION.

SOME STATES DO NOT ALLOW THE EXCLUSION OR LIMITATION OF INCIDENTAL OR CONSEQUENTIAL DAMAGES. AS A RESULT, THE ABOVE LIMITATIONS OR EXCLUSIONS MAY NOT APPLY TO YOU. IF THE ABOVE LIMITATIONS OR EXCLUSIONS DO NOT APPLY TO YOU, IN NO EVENT WILL

PHÖTAGE LLC OR ITS ASSOCIATED PARTIES TOTAL LIABILITY TO YOU FOR ALL DAMAGES, LOSSES OR CAUSES OF ACTION EXCEED THE GREATER OF ONE HUNDRED UNITED STATES DOLLARS (\$100.00) OR THE MINIMUM AMOUNT ALLOWED BY LAW.

YOU AGREE THAT IN THE EVENT YOU INCUR ANY DAMAGES, LOSSES OR INJURIES THAT ARISE OUT OF PHÖTAGE LLC'S ACTS OR OMISSIONS, THE DAMAGES, IF ANY, CAUSED TO YOU ARE NOT IRREPARABLE OR SUFFICIENT TO ENTITLE YOU TO AN INJUNCTION PREVENTING ANY EXPLOITATION OF ANY WEBSITE, SERVICE, PROPERTY, PRODUCT OR OTHER CONTENT OWNED OR CONTROLLED BY PHÖTAGE LLC AND ITS ASSOCIATE PARTIES.

BY ACCESSING THE SERVICE, YOU UNDERSTAND THAT YOU MAY BE WAIVING RIGHTS WITH RESPECT TO CLAIMS THAT ARE AT THIS TIME UNKNOWN OR UNSUSPECTED, AND IN ACCORDANCE WITH SUCH WAIVER, YOU ACKNOWLEDGE THAT YOU HAVE READ AND UNDERSTAND, AND HEREBY EXPRESSLY WAIVE THE BENEFITS OF SECTION 1542 OF THE CIVIL CODE OF CALIFORNIA, AND ANY SIMILAR LAW OF ANY STATE OR TERRITORY, WHICH PROVIDES AS FOLLOWS: "A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS FAVOR AT THE TIME OF EXECUTING THE RELEASE, WHICH IF KNOWN BY HIM MUST HAVE MATERIALLY AFFECTED HIS SETTLEMENT WITH THE DEBTOR."

PHÖTAGE LLC IS NOT RESPONSIBLE FOR THE ACTIONS, CONTENT, INFORMATION OR DATA OF THIRD PARTIES, AND YOU RELEASE PHÖTAGE LLC AND ITS MEMBERS, DIRECTORS, OFFICERS, EMPLOYEES, AND AGENTS FROM ANY CLAIMS AND DAMAGES, KNOWN AND UNKNOWN, ARISING OUT OF OR IN ANY WAY CONNECTED WITH ANY CLAIM YOU HAVE AGAINST ANY SUCH THIRD PARTIES.

17. Indemnity

You acknowledge and agree that you are personally responsible for your conduct while using the Application and you expressly agree to indemnify and hold Phötage LLC and its affiliates, officers, directors, agents, employees, and Phötage LLC harmless from any claim, demand, loss, liability, cost, Losses or expense, including attorneys' fees and court costs, made by any person or entity arising out of or in any way connected to: (i) your use of the Application or someone's use of the Application on your behalf; (ii) the use of the Application by anyone using your device; (iii) your violation of this Agreement, state or federal securities laws or regulations, (iv) your violation of any other person's rights, including but not limited to infringement of any copyright or violation of any proprietary or privacy right; (v) your Content and (vi) any misrepresentation made by you. Under no circumstances, including but not limited to negligent or intentional acts, will Phötage LLC or its affiliates, officers, directors, employees or agents be liable for any damages, liabilities, or Losses of any kind that result from yours or anyone else's use

of, or the inability to use, the Application. You further agree to cooperate as fully as required by Phötage LLC in the defense of any claim related to your use of the Application, another's use of the Application on your behalf, or the use of the Application by anyone using your device. Phötage LLC reserves the right to assume the exclusive defense and control of any matter subject to indemnification by you, and you will not in any event settle any claim related to your use of the Application, another's use of the Application on your behalf, or the use of the Application by anyone using your device without the prior written consent of Phötage LLC. Your obligations under this paragraph shall survive termination of this Agreement.

18. Arbitration

Except if you opt out for disputes relating to (i) yours or Phötage LLC's intellectual property (such as trademarks, trade dress, domain names, trade secrets, copyrights, and patents) or violations of Section 5(i) or Section 5(k) of this Agreement ("Excluded Disputes"), you agree that all disputes between you and Phötage LLC (including disputes that involve third parties) relating to or arising out of your relationship with Phötage LLC, including but not limited to disputes related to this Agreement, your use of the Application, and/or rights of privacy and/or publicity, will be resolved by binding, individual arbitration under the American Arbitration Association's rules for arbitration of consumer-related disputes and you and Phötage LLC hereby expressly waive trial by jury. As an alternative, you may bring your claim in your local "small claims" court, if permitted by that small claims court's rules. You may bring claims on your own behalf. Neither you nor Phötage LLC will participate in a class action or class-wide arbitration for any claims covered by this Agreement. You also agree not to participate in claims brought in a private attorney general or representative capacity, or consolidated claims involving another person's account, if Phötage LLC is a party to the proceeding.

This dispute resolution provision will be governed by the Federal Arbitration Act. In the event the American Arbitration Association is unwilling or unable to set a hearing date within one-hundred and sixty (160) days of filing the case, then either Phötage LLC or you can elect to have the arbitration administered instead by the Judicial Arbitration and Mediation Services. Judgment on the award rendered by the arbitrator may be entered in any court having competent jurisdiction. Any provision of Applicable law notwithstanding, the arbitrator will not have authority to award damages, remedies or awards that conflict with this Agreement.

Please note that the right to resolve disputes in court is an important right and that arbitration differs from court action. Among other differences, unlike court action, where your rights are determined by a jury if you so decide, an arbitration is decided by a neutral arbitrator who will decide your rights.

You may opt out of this agreement to arbitrate. If you do so, neither you nor Phötage LLC can require the other to participate in an arbitration proceeding. To opt out, you must notify Phötage LLC in writing via Certified Mail within thirty (30) days of the date that you first became subject to this arbitration provision. You must use this address to opt out:

Phötage LLC, Attn: Arbitration Provision, 336 W. 700 South, Salt Lake City, Utah, 84101.

You must include your name, residential address, email address you use for your account, and a clear statement that you want to opt out of this arbitration agreement. Please keep a copy of the “Opt Out” communication for your records along with proof of mailing.

Phötage LLC reserves the right to change this dispute resolution provision, but any changes will not apply to disputes arising before the effective date of the amendment.

If the prohibition against class actions and other claims brought on behalf of third parties contained above is found to be unenforceable, then all of the preceding language in this Arbitration Section will be null and void. This arbitration agreement will survive the termination of your relationship with Phötage LLC.

You may obtain additional information regarding the AAA’s consumer arbitration rules, arbitration provisions and arbitrator rosters at www.adr.org.

19. Time Limitation on Claims

You agree that any claim you may have arising out of or related to your relationship with Phötage LLC must be filed within one year after such claim arose; otherwise, your claim is permanently barred.

20. Governing Law

This Agreement, and all future agreements you enter into with Phötage LLC, unless otherwise indicated on such other agreement, shall be governed by the laws of the State of Utah, without regard to any principles of conflicts of law AND WILL SPECIFICALLY NOT BE GOVERNED BY THE UNITED NATIONS CONVENTIONS ON CONTRACTS FOR THE INTERNATIONAL SALE OF GOODS, IF OTHERWISE APPLICABLE. This is the case regardless of whether you reside or transact business with Phötage LLC or any of its affiliates or agents in the State of Utah or elsewhere. For any action at law or in equity relating to the arbitration provision of this Agreement, or if you opt out of the agreement to arbitrate, you agree to resolve any dispute you have with Phötage LLC exclusively in a state or federal court located in Salt Lake City, Utah, and to submit to the personal jurisdiction of the courts located in Salt Lake County for the purpose of litigating all such disputes. Please note, your use of the Application may also be subject to other local, state, national, or international laws.

. If any provision of this Agreement is found to be invalid or unenforceable for any reason, the arbitrator, or a court of competent jurisdiction if you opt out of the arbitration clause, shall have the power to modify the invalid or unenforceable provision to reflect as nearly as possible the original intentions of the parties. If the invalid or unenforceable provision cannot so be modified, then that provision will be severed from this Agreement and the remaining provisions of this Agreement will not be affected thereby, each of which shall remain valid and enforceable to the fullest extent permitted by law.

21. Geographic Restrictions

The information provided within the Application is not intended for distribution to or use by any person or entity in any jurisdiction or country where such distribution or use would be contrary to any law or regulation, or which would subject Phötage LLC to any registration requirement within such jurisdiction or country. Phötage LLC reserves the right to limit the availability of the Application or any portion of the Application, to any person, geographic area, or jurisdiction and to limit the quantities of any content, program, product, service or other feature Phötage LLC provides, at any time and in Phötage LLC's sole discretion.

Software related to or made available by or through the Application or Phötage LLC may be subject to United States export controls. Thus, no software from the Application may be downloaded, exported, or re-exported: (a) into (or to a national or resident of) any country to which the United States has embargoed goods; or (b) to anyone on the United States Treasury Department's list of Specially Designated Nationals or the United States Commerce Department's Table of Deny Orders. By downloading any software related to the Application, you represent and warrant that you are not located in, under the control of, or a national or resident of, any such country or on any such list.

22. How to Contact Phötage LLC with Complaints, Questions or Claims

Phötage LLC may be contacted by mail at: Phötage LLC, Attn: Gigi, 336 W. 700 South, Salt Lake City, Utah, 84101; or by e-mail at: gigi@photageit.com.

23. Third Party Beneficiary

You and Phötage LLC acknowledge and agree that Apple, and Apple's subsidiaries, are third party beneficiaries of this Agreement, and that, upon Your acceptance of this Agreement and its terms and conditions, Apple will have the right (and will be deemed to have accepted the right) to enforce this Agreement against You as a third party beneficiary of this Agreement.

24. Miscellaneous

If either party waives any provision of this Agreement, that waiver is not deemed to be a continuing waiver of the same or any other provision. Neither the course of conduct between the parties nor trade practice will modify this Agreement. This Agreement constitutes the entire agreement between you and Phötage LLC regarding the Application, and governs your use of the Application, superseding any prior agreements between you and Phötage LLC regarding the Application. You may not assign this Agreement or any of its rights and you may not delegate any obligations under this Agreement, in whole or in part, whether voluntarily or by operation of law, without the prior written consent of Phötage LLC. Any purported assignment or delegation by you without prior written consent will be null and void. Any rights not expressly granted in this Agreement are reserved by Phötage LLC. Each associated service provider of Phötage LLC is an intended third party beneficiary of this Agreement and is entitled to rely upon all rights, representations, warranties, and covenants made in this Agreement. Except for Phötage LLC's associated service providers, this Agreement does not confer any other third-party beneficiary rights. This Agreement was written in English (US). To the extent any translated version of this

Agreement conflicts with the English version, the English version controls. Please note, section headings are inserted for convenience only and shall not be used in any way to construe the terms of this Agreement.