

TERMS AND CONDITIONS OF SALE FOR CUSTOMERS USING DESIGN SERVICES

These terms and conditions (the "Terms") are the Terms upon which Bob Books agrees to provide the Services and Photo-books to the Customer. Upon making Submissions to the Site, and accepting Bob Books' offer to provide the Services, the Customer will be legally bound by these Terms. **PLEASE READ CLAUSE 9 OF THESE TERMS CAREFULLY WHICH LIMITS BOB BOOKS' LIABILITY TO THE CUSTOMER.**

1 Definitions

1.1 The following terms will have the following meaning in these Terms:

"Approved Design"	the form of Design that the Customer confirms to Bob Books is in an approved form;
"Bob Books"	Bob Books Limited (Company Number: 5691816) of 241A Portobello Road, London, W11 1LT;
"Customer"	the customer purchasing a Photo-book under these Terms;
"Design"	the design of a Photo-book created by the Third Party Provider on behalf of the Customer;
"Fees"	the fees for purchasing a Photo-book by the Customer as set out on the Site;
"Order"	the order for Photo-books made through the Site made by the Customer;
"Intellectual Property Rights"	copyright, design rights, database right, patents, personality rights and any rights to inventions, know-how, trade and business names, trade secrets, logos and devices, trade marks (whether registered or unregistered) and any applications therefore copyright, design rights, database right, patents, personality rights and any rights to inventions, know-how, trade and business names, trade secrets, logos and devices, trade marks (whether registered or unregistered) and any applications therefore;
"Photo-book"	the Photo-book that is made to the Approved Design by the Third Party Provider;
"Preliminary Order"	the Customer's preliminary order containing details of Photo-books that the Customer wishes to order, including the number and dimensions of each Photo-book;
"Services"	the services provided to the Customer by Bob Books and/or the Third Party Provider;
"Site"	the website accessible via www.bobbooks.co.uk and all sub-domains thereof owned and operated by Bob Books;
"Submissions"	the artwork, photographs, drawings, text or other media that the Customer provides to Bob Books for use in the Design;
"Third Party Provider"	the third party provider that Bob Books uses to create the Design and provide the Photo-books to the Customer, on behalf of Bob Books.

1.2 "Parties" shall mean Bob Books and the Customer together.

1.3 The headings are for convenience only and do not form part of the contract.

1.4 Where the context so admits or requires, words denoting the singular include the plural and vice versa;

1.5 Where the context so admits or requires, words denoting the masculine shall include the feminine and vice versa;

1.6 References to statutory provisions shall be construed as references to those provisions as replaced, amended or re-enacted from time to time (whether before or after the date that the Customer accepts these Terms) and shall include any provisions of which they are re-enactments (whether with or without modification) and any subordinate legislation made under such provisions.

2 THE SERVICES

2.1 Bob Books shall allow the Customer to use the Site to provide Submissions to Bob Books and request that Bob Books arranges for the Third Party Provider to create the Design on behalf of the Customer, using the Submissions.

- 2.2 Unless agreed otherwise, once the Customer has requested that Bob Books arranges for the Third Party Provider to create the Design using the Submissions, the Customer is not permitted to request that further Submissions are added to the Design at any stage.
- 2.3 After each design change, the Customer will have seven (7) days from time of receipt of notification that the Design is ready to review, to review the design and either (a) provide feedback to Bob Books or (b) confirm the Design is approved and make a Preliminary Order.
- 2.4 If the Customer does not request a change to the Design or make a Preliminary Order within the above timescale, Bob Books reserves the right to send the Customer follow-on notifications and to take other actions it deems appropriate, including but not limited to suspension or termination of the Customer's account or refusal provide any additional Services.
- 2.5 The Customer agrees and acknowledges that all design changes must be made pursuant to the requirements and limitations set forth on the Site and must be reasonable. Although Bob Books takes every precaution to ensure all Products appear correctly in accordance with the Approved Design, it is the Customer's responsibility to ensure the Design is an approved form before confirming this to Bob Books, particularly because Bob Books or the Third Party Provider will only be reproducing the Approved Design.
- 2.6 Once the Customer has confirmed to Bob Books that the Design is in an approved form, the Design shall become an Approved Design.
- 2.7 Once the Design is an Approved Design, Bob Books shall provide the Customer with the opportunity to request delivery of physical copies of Products made to the Approved Design, by making a Preliminary Order through the Site.
- 2.8 On receipt of the Customer's Preliminary Order, Bob Books shall, at their discretion, offer to supply the Photo-books to the Customer in accordance with the Preliminary Order.
- 2.9 Where the Customer accepts Bob Books' offer, the Customer shall have completed an Order. Following the Order, Bob Books shall provide the Customer with an order confirmation detailing the terms of the Order.
- 2.10 In consideration of, and following, payment of the Fees by the Customer in accordance with clause 3 below, Bob Books shall procure that the Third Party Provider prints and dispatches the Order to the Customer within the time period indicated to the Customer on the order confirmation, subject to the below clause. If no dates are so specified, delivery will be made within a reasonable time.
- 2.11 The Customer agrees and acknowledges that whilst Bob Books will use reasonable endeavours to comply with estimated timescales provided to the Customer, Bob Books cannot guarantee that any particular Design will be provided within the stated timescales or that the Order will be printed and/or shipped on the date indicated on any order confirmation provided to the Customer. The Customer agrees and acknowledges that time shall not be of the essence in relation to Bob Books' obligations under these Terms.

3 Fees and Payments.

- 3.1 Bob Books shall not charge the Customer until the Customer has accepted Bob Books' offer in accordance with clause 2.9 above. Following acceptance of the offer and the making of an Order, the Customer shall pay the Fees as detailed to the Customer on the Site and agrees and acknowledges that Bob Books will not process the Order until payment of the Fees has been made by the Customer.
- 3.2 Payment by the Customer must be made online via the Site by credit or debit card or such other payment methods as available on the Site.
- 3.3 The Customer agrees and acknowledges that the Fees are subject to change from time to time by Bob Books and any such changes will be notified by amending the Fees as set out on the Site. Any increase in the Fees will only apply to an Order placed after the date of the increase, and will not apply retrospectively.
- 3.4 Payments and transactions are managed for Bob Books by their partners Cewe Color LTD (registered in England under number 00485715 with a registered office at Unit 4, Spartan Close, Tachbrook Park, Warwick CV34 6RR). All online transactions are encrypted using a secure 128 SSL certificate. Transactions will appear on bank statements as "Photoservice".
- 3.5 All sums quoted on the Site or otherwise are exclusive of VAT.

4 Cancellations and Returns

- 4.1 The Customer is under no obligation to complete an Order following provision of the Design and after agreeing on the Approved Design.

- 4.2 The Customer may cancel an Order within 7 days following the date of the Order, provided that the Third Party Provider has not commenced production of the relevant Photo-book, Bob Books will refund the Fees. The Customer may cancel its order outside of the above timescale, however, the Fees paid to Bob Books will be non-refundable.
- 4.3 The Customer agrees and acknowledges that upon receipt of the Photo-book, all quality and return issues will be handled pursuant to these Terms. The Customer agrees and acknowledges that as the Photo-book is a bespoke product, the provisions of the Distance Selling Regulations in relation to a 7-day cooling off period will not apply and the Customer will only be entitled to return the Photo-book in the circumstances outlined in clause 9 of these Terms.

5 Warranties

- 5.1 The Customer warrants and undertakes that the Submissions will not contain any content, information or material (including but not limited to images and text) which:
- 5.1.1 is unlawful or which gives rise to civil or criminal liability;
 - 5.1.2 is abusive, illegal, pornographic, defamatory, libellous, untrue, discriminatory, obscene, inflammatory or racist;
 - 5.1.3 infringes upon the Intellectual Property Rights of any third party;
 - 5.1.4 is technically harmful such as computer viruses, worms, logic bombs or other malicious software or harmful data;
 - 5.1.5 is fraudulent, false or misleading;
 - 5.1.6 harasses any person;
 - 5.1.7 solicits, invites, encourages, advocates, incites or provokes any or all of the foregoing or contains, links to or directs persons to such material;
 - 5.1.8 may bring Bob Books or the Site into disrepute.
- 5.2 Notwithstanding the above, the Customer warrants that the Customer will be truthful and honest in its use of the Services and use the Services in a responsible and reasonable manner and only in a manner envisaged by these Terms.
- 5.3 The Customer warrants that all Intellectual Property Rights in the Submissions are the property of or properly licensed to the Customer, and the Customer grants to Bob Books a non-exclusive, irrevocable and perpetual royalty-free licence to use such Intellectual Property Rights in the Submissions as necessary for the purposes of providing the Services.
- 5.4 Any breach of these warranties will entitle Bob Books to refuse to produce the relevant Photo-book at Bob Books' discretion and Bob Books may at its discretion cancel all or any other Orders made by the Customer and refuse to provide further Services to the Customer.
- 5.5 The Customer will indemnify and hold harmless Bob Books in full and defend at its own expense Bob Books against all claims, liabilities, costs and losses whatsoever and howsoever incurred by Bob Books its servants or nominees arising out of any claim made against it in any jurisdiction in the world as a result of the breach by the Customer of the above warranties.
- 5.6 The Customer is responsible for the security and use of any password or login identifier issued to the Customer in connection with the provision of the Services and the Customer must take all reasonable steps to ensure that such identifiers are kept confidential and secure and that the Customer does not allow any other person without the Customer's authority to use the Services using the Customer's password or identifier. The Customer shall notify Bob Books should the Customer become aware that their login and/or password have been compromised and made available to third parties.
- 5.7 Bob Books does not give any warranties with regard to the Services or with regard to any Photo-book.

6 Intellectual property rights

- 6.1 All Intellectual Property Rights in the design, development, look and feel and concept of the Photo-book and all Intellectual Property Rights in the Design and any Approved Design are the property of or properly licensed to Bob Books. All such rights of Bob Books are hereby asserted and reserved.
- 6.2 Bob Books, BOB, bobbooks.co.uk and associated logos and brand features are trade names or trade marks of Bob Books, the use of which is expressly forbidden by any other persons without the express permission of Bob Books. Such trade marks, trade names and brand features may be reproduced on the Photo-book by Bob Books.

7 Restrictions of the Internet

7.1 The Customer acknowledges and accepts that:

7.1.1 Bob Books has no control over the Internet which is a global decentralised network of computer systems. Access to the Site and Services may not be error free or uninterrupted and may also be very variable; and

7.1.2 information and other material accessible over the Internet via the may contain viruses, worms, Trojan horses, cancelbots, or other harmful and destructive components. Bob Books will not be liable for any direct, indirect, incidental or other loss or damages which result or may result from the Customer's access to or use of the Internet.

7.2 The Site is maintained by Bob Books' web hosting service provider. Every effort is made to ensure the continuity of the Site, but some occasional technical downtime beyond Bob Books' control and/or the control of Bob Books' hosting service provider may occur. Such downtime may prevent the Services being available for the duration of the downtime and may result in errors occurring in the usage of the Site. Bob Books will not be liable for such delays or errors resulting from any cause beyond Bob Books' control and/or that of Bob Books' web hosting provider including, for the avoidance of doubt, hosting server downtime.

8 Termination

8.1 Bob Books may terminate the Services at any time for any reason on notice in writing (which may be by e-mail) to the Customer in the event of any breach by the Customer of the provisions of these Terms.

8.2 On termination by Bob Books under the above clause, where the Customer has made payment of the Fees, the Fees paid to Bob Books for the Order will be refunded, unless the relevant Photo-book in question has been produced prior to termination in which case the relevant Photo-book will be despatched within a reasonable time and the relevant Fees will not be refunded.

9 Limitation of liability

9.1 Subject to the below clauses, the Customer agrees and acknowledges that Bob Books' total liability under these Terms will not exceed the Fees paid by the Customer to Bob Books.

9.2 Nothing in these Terms will exclude or restrict Bob Books' liability for fraudulent misrepresentation and/or for death or personal injury to the extent that such injury results from Bob Books' negligence or wilful default, or that of its servants, agents or subcontractors.

9.3 Nothing in these Terms will exclude the conditions and warranties implied by Section 12 of the Sale of Goods Act 1979 and where the Customer deals as a consumer, the conditions implied by sections 13 to 15 inclusive of the said Act and by sections 3 and 4 of the Supply of Goods and Services Act 1982; or (c) where the Customer deals as a consumer, affect the Customer's statutory rights.

9.4 The Customer will be entirely responsible for the Submissions. Bob Books will not be liable for any error made by the Customer with regard to the Submissions or in the Approved Design. In the event of an error or omission in the reproduction of the Approved Design in the production of the relevant Photo-book and which materially detracts from it, Bob Books' liability for any such error or omission made by Bob Books will not exceed the lesser of the following:

9.4.1 the amount of a full refund of the Fees relating to the relevant Approved Design in question; or

9.4.2 the cost of re-producing the relevant Photo-book in question.

9.5 Any liability of Bob Books for non-delivery of the Photo-book will be limited to replacing the Photo-book within a reasonable time or issuing a credit note for the Fees. Bob Books will require reasonable evidence of non-delivery and will not be liable for more than one replacement of an undelivered Photo-book.

10 Notices

10.1 Any notice required or permitted under these Terms will be in writing (which may be by e-mail) and will be deemed to have been properly given:

10.1.1 48 hours after being posted by first class mail (by airmail if sent internationally) with postage prepaid to the address provided by the Customer or other address notified for the purpose; or

10.1.2 at close of business on the day of effective transmission if sent by e-mail to an e-mail address notified for that purpose.

11 E-Commerce Directive requirements

- 11.1 The following information is provided to the Customer in compliance with EU Directive No. 2000/31/EC (the e-Commerce Directive):
- 11.2 The following are the steps to be taken by the Customer to place an order using the Site. Orders may only be placed in English. Orders will be acknowledged via email within 24 hours from placing the order. The Customer may make an Order by firstly agreeing on the Approved Design and then selecting the desired numbers and dimensions of Photo-books. The Customer will then make a Preliminary Order. Once Bob Books has determined that they are able to fulfil the order, they will accept the Preliminary Order and the Customer will have made an Order. The Customer will then be obliged to pay the Fees prior to any action being taken by Bob Books in relation to the Order.
- 11.3 Once an Order has been placed, it will be accessible to the Customer within 7 days of making the Order.
- 11.4 This site is owned and operated by Bob Books Limited, a company registered in England and Wales (Co. Reg. No 05691816) whose registered office is at 241A Portobello Road, London, W11 1LT.
- 11.5 Bob Books can be contacted in writing at Bob Books Ltd, 241a Portobello Road, London, W11 1LT or via email askbob@bobbooks.co.uk.
- 11.6 Bob Books's VAT number is 884078389.

12 General

- 12.1 No provision of these Terms will be enforceable under the Contracts (Rights of Third Parties) Act 1999 by a person who is not party to it.
- 12.2 Bob Books may assign its rights or obligations under these Terms at anytime. The Customer may not assign its rights or obligations under these Terms without Bob Books' prior written consent.
- 12.3 These Terms, the terms of the Order and Bob Books' privacy policy and terms of use, as available on the Site, constitute the whole and entire agreement between the Parties and supersedes all prior oral and written representations, arrangements and understandings.
- 12.4 These Terms shall not be varied or amended and no provision shall be deemed waived by any act, omission or acceptance of either party except in writing signed by both Parties.
- 12.5 If any term of these Terms shall be found illegal, unenforceable or otherwise invalid, then, notwithstanding any such invalidity, these Terms shall remain in full force and effect and such term shall be deemed to be deleted.
- 12.6 Bob Books will not be liable for failure to meet its obligations under these Terms if Bob Books or the Third Party Provider is prevented from or delayed in doing so due to circumstances beyond Bob Books' reasonable control including, without limitation, acts of God, governmental actions, war or national emergency, acts of terrorism, protests, riot, civil commotion, fire, explosion, flood, epidemic, lock-outs, strikes or other labour disputes, or restraints or delays affecting carriers or inability or delay in obtaining supplies of adequate or suitable materials.

13 Governing Law

- 13.1 These Terms will be governed by English law and the parties hereby submit to the exclusive jurisdiction of the English courts.