

# Terms & Conditions

## General terms and conditions Photobox Ltd (Photobox.co.uk)

### 1. Introduction

**1.1.** These are the general terms and conditions of Photobox Ltd hereinafter referred to as "Photobox", "we", or "us". These general terms and conditions are referred to as "T&C's".

**1.2.** Photobox is located in Herbal House, 10 Back Hill, London, EC1R 5EN. We are registered with the UK Companies House under number 03906401. Our VAT number is GB115138543.

**1.3.** The word "customer" or "you" is defined in these T&C's as the person who uses our websites, our apps, registers and uses an account, uses our photo editor and other services, purchases our products, requests for information or shows an interest in our products.

**1.4.** You may reach us through our customer care department. You may use our chat service or send us an email through our websites, use Facebook or Twitter to contact us, or call us. All our contact information is easily accessible on our website: [photobox.co.uk](http://photobox.co.uk).

### 2. Applicability

**2.1.** These T&C's apply to the use of our websites, our apps, to the registration and use of an account, to the use of our photo editor and other services available from time to time, to all our offers, to the orders you place and to the agreements and other legal relationships entered into between us and you. These T&C's also apply to subsequent and additional offers, orders and agreements, and to new agreements with you.

**2.2.** When registering for an account on one of our websites or our apps, you will be asked to accept the T&C's. When placing an order, you will also be asked to accept the T&C's. In both cases the T&C's are available to you for review where you will also find an option to print them for later examination.

**2.3.** These T&C's are easily electronically accessible on all of our websites and our apps. Upon request they will be sent to you without delay and at no cost.

**2.4.** You must ensure that the email address we hold for you is kept up-to-date and that you have full access to it – we will be sending you important messages there. So if you change email address, then you must change it on your account. You should also ensure that emails from us are not routed to a spam folder in your email account. Should you provide an invalid email address or an email address that belongs to someone else, we may terminate your account at any time without notice.

### 3. Formation of the agreement

**3.1.** Our offers are presented to you in our online order process, or in other ways identified by us as such, on the basis of your specific request. General offers on our websites, our apps, in our emails and in promotional materials are for information purposes only and are not considered as offers.

**3.2.** You may accept our offer by making payment in the order process. The order process allows you to check and amend any errors before submitting your order. The order process is only available in the English language and we will not file a copy of any contract formed between you and us. Upon receipt of your payment your order is placed and the agreement is formed, on the condition precedent that the upload of your photos was successful. All orders are subject to our T&C's.

**3.3.** We shall confirm receipt of your order to you by email immediately.

**3.4.** Please note that we reserve the right not to fulfil an order in certain circumstances, including without limitation where (i) an order breaches the requirements of these T&C's (ii) images are corrupted, unsupported technically or inadequately pixelated (iii) the product you order being unavailable (iv) we are unable to obtain authorisation for your payment (v) a pricing or product description error being identified. If we reject your order, we will contact you to confirm this and reverse the payment you have made for that order.

## **4. Performance of the agreement and delivery**

**4.1.** We will immediately start the performance of the agreement upon its formation by processing your order.

**4.2.** It is our intention to start the production of your order on the workday following the day the agreement was formed. Our websites and our apps contain information on estimated delivery times for each of our products and these may differ depending on the time of the year, as holiday seasons or other circumstances may affect the time required to process orders in our production facilities.

**4.3.** The costs of delivery will be as displayed to you on the website or our apps.

**4.4** We will provide you with a delivery period during the order process, and will confirm such delivery period in the Confirmation Email. In case you order more than one product at once, we may ship them together in one package. In that case the longest delivery time applies.

**4.5.** Orders are delivered by ordinary mail or carrier.

## **5. Prices and payment**

**5.1.** Prices in our emails and in promotional materials are for information purposes only and may differ from time to time according to availability, customization choices and promotional timelines.

**5.2.** Prices are including VAT where applicable and excluding shipping costs and any applicable import duties, levies and taxes. Information on how any applicable import duties, levies and taxes may apply to your order is explained [here](#).

**5.3.** The price of your particular order and the shipping costs are shown in the order process as part of our offer, which you accept by making payment, the final step in our order process. The shipping costs for outside of the EU and the UK do not include any applicable charges by the country, like custom handling fees, import duties, levies and taxes, nor can we give any information about these, as they are charged by the country of your shipping address. To find out upfront if your order will be subject to these costs we advise to consult your local customs office for information.

**5.4.** We regularly offer discount codes and promotions to our customers. Specific terms and conditions apply. In case of expiration of a discount code, the regular prices apply.

**5.5.** Our websites and our apps contain information about the various payment methods that are available to our customers. As noted above, you place your order by making payment in our order process. Upon receipt of the payment, the agreement is formed provided that the upload of your photos was successful. Once we've received your payment, we send you a confirmation by email.

## **6. No cancellation rights**

**6.1.** As our products are made to the customer's (consumer's) specifications and are clearly personalised, our customers do not have cancellation rights under the applicable consumer laws with regard to the agreement.

## **7. Conformity and complaints**

**7.1.** The products we deliver have satisfactory quality and performance, and are fit for purpose that are normal in goods of the same type and that you may reasonably expect. Please note that the quality of our prints is dependent on the quality of the digital images that you upload and we cannot accept claims on the basis of differences in colours between a print and the original digital image unless we are at fault.

**7.2.** In case you are unhappy with your order or our service, we request that you notify us within 14 days of receipt of your order in order for us to offer a fitting solution to you.

**7.3.** In case the product you ordered is not in conformity with the agreement, because of a clear deficiency or the incomplete or incorrect processing of your order, we request that you inform us within a period of two months from the date on which you detect the lack of conformity, or such longer period as prescribed by applicable mandatory law. In case of a lack of conformity, you have the right to a repair or replacement in accordance with your statutory rights which we aim to send to you within our regular delivery times. We will send it to you free of charge.

**7.4.** Please note that if you delete the digital photo images from your account or terminate your account altogether, we will not be able to reprint your order.

**7.5.** In case we are unable to provide you with a repair or replacement that remedies the lack of conformity, you have the right to cancel the agreement and receive a full refund of the purchase price, unless the lack of conformity is minor.

**7.6.** You are obliged to return the products that were not in conformity to us upon our request. We will make sure you don't incur any shipping costs.

**7.7.** We are under no obligation to provide a solution for a product that is damaged as a result of improper use by the customer or normal wear and tear.

## **8. Photo storage / photo organiser**

**8.1.** We allow you to upload and store your photos and certain related data, and to use these to create photo products and to access those photos through your account. Your storage with us must not be used as your main or back-up storage facility for this data. It is up to you to make sure that your data is securely stored elsewhere, as we do not guarantee that we will continue to make storage available to you.

**8.2.** Although we incur a cost in providing you with storage, we don't charge for providing this service. However, we only provide storage for active users whose accounts show a basic – and very minimal – level of

activity. You are an “active user” if you have placed at least one order with us in the past 18 months since your last order.

**8.3.** You will be reminded about this in an email to your registered email address before the end of this 18 month period. You can then place a new order for another 18 months of access and storage. If you do not place an order, we will permanently remove your photos and related data, and they will not be accessible to you (or us) anymore.

**8.4.** In general, we have retention periods for data in your account, including for photos and related data. After these periods have expired, these photos and related data will be deleted. More information can be found [here](#). We are obliged by the GDPR not to retain personal data (such as photos and related data) for longer than we reasonably need it for our business purposes - and accordingly if we hold photo related data for customers that are no longer active customers, we are obliged to delete such data in line with the requirements of the GDPR.

**8.5.** We will not be responsible for the loss of, deletion or corruption of photo images or any other user content. We do not keep back-up copies of these; we have no liability to you if these become lost or corrupted as a result of any cause (including human error, software or hardware failure, failures of telecommunications or internet services, or events beyond our control).

## **9. User conduct**

**9.1.** You are responsible for the use of your account and guarantee that you or anyone who uses your account with your permission complies with the T&C's. Accounts are granted to individual, named persons and may not be shared. You will use your own name and contact details and keep your password strictly confidential. If you expect your account has been used without your permission, please notify us immediately.

**9.2.** You guarantee that the photos uploaded to our services through your account do not infringe any third party rights. Third party rights include, without limitation, intellectual property rights, such as copyrights, neighbouring rights, design rights, patent rights, trademark rights, trade name rights and trade secret rights. Third party rights also include, without limitation, privacy rights and rights to the basis of one's portrait.

**9.3.** You also guarantee that the photos uploaded to our services through your account are not in breach of criminal law, statutory provisions of mandatory civil, administrative or other applicable law, public order, public morality or what is, according to unwritten law, to be regarded as proper social conduct. Please note that such illicit photos shall include, but not be limited to, the following categories: pornography, erotic content, sexual body parts, suggestive poses, fetishes, depicting minors in an inappropriate / sexualized manner, bestiality, non-consenting individuals, unwanted sexualization of a person, nudity, discrimination, insurrection, extremism, exploitation, hatred, racism, dehumanization or vilification of individuals, serious injuries, death, criminal acts, mistreatment, torture, abuse, cruelty, weapons, drugs, rape, assault and/or human trafficking.

**9.4.** You guarantee that by processing your order and performing the agreement, we are not breaching any of the third-party rights or laws as caused by you.

**9.5.** You guarantee that the orders you place are for private and non-commercial use and that you are acting as a consumer.

**9.6.** You guarantee that the photos uploaded to our services through your account do not contain viruses, malware, Trojan horses or other forms of harmful software or any other content that may compromise our services. You guarantee not to hack, spam or use our services in any manner that interferes with or disrupts the integrity or performance of our services. You also guarantee not to collect or process any (personal) data from our services in breach of applicable data protection and privacy laws.

**9.7.** To the maximum extent permitted by law you are liable to pay for costs of any claims, damages or losses Photobox or its affiliates suffer as result of your breach of these T&C's.

**9.7.** We have the right to cancel the agreement, delete your photos, suspend or terminate your account and notify the relevant authorities in case you act in violation of the T&C's or we have serious reason to believe this is the case or if we receive an order from a governmental authority to do so. We are not liable for any damage that is the result of this.

**9.8.** Although we prohibit the uploading of images and other content which infringes our content rules, we cannot control and do not monitor or pre-screen the use of our websites and apps. It is possible that images or other user content may be accessible through our websites and apps which contravenes our content rules. We are not responsible for such images or user content, but if you become aware of any such images or user content on our websites or apps please contact us.

**9.9.** Your image storage must comply with our reasonable fair use requirements. Those fair use requirements would be breached by, for example:

**9.9.1.** the automated or scripted uploading of images or other user content;

**9.9.2.** the uploading of images or other user content on a high-frequency basis; or

**9.9.3.** the inclusion of very large volumes of images or other user content in an individual album.

**9.10.** Should you breach our fair use requirements, we may suspend your account, cease to provide you with image storage and/or delete your images and other user content from our systems.

## **10. Availability of our services**

**10.1.** We aim to keep all of our services available to you on a continual basis, but maintenance work, security updates, or events or disruptions beyond our control may disrupt our services or your account during times. We cannot be held liable for any loss or damage arising in connection with such disruptions.

**10.2.** Our services are available to you if you have a computer, mobile phone or device with internet access and up to date internet browser. For our mobile application additional requirements apply. You have the obligation to take sufficient security measures with regard to your device and the software you use. Please note that we cannot be held responsible for the devices and software you use in making use of our services, nor can we be held responsible for errors or loss or damage of data during transfer of digital photo images to our services through computer networks or telecommunication facilities not controlled or operated by us.

**10.3.** To the maximum extent permitted by law, access to our free websites, applications, photo editor and other services are offered without any guarantee or warranty as to their performance. We may make changes to these services from time to time.

## **11. Intellectual property rights**

**11.1.** All intellectual property rights, including but not limited to copyrights, neighbouring rights, database rights, design rights, trademark rights, trade name rights, trade secret rights and patent rights on and regarding our websites, applications, photo editor and services, including the know-how related thereto, are owned by Photobox and its licensors.

**11.2.** You have a non-exclusive, non-transferable limited licence, without the right to sublicense, to access and use our services solely as is necessary to benefit from our services. You are not permitted to reproduce, modify, or make available to the public any part of our services, unless as is permitted under mandatory law.

**11.3.** We are allowed to take technical measures to protect intellectual property rights. You shall not remove, avoid or bypass this security or have any third party do so.

**11.4.** You are not permitted to integrate or combine parts of our websites, applications, photo editor and services in part or as a whole in or with software that was not made available by us. Decompilation, reverse engineering or any form of translating or editing of our websites, applications, photo editor and services is not permitted unless and exclusively when these actions completely fall under what is permitted by mandatory law.

## **12. Privacy**

**12.1.** We are committed to protecting your personal data. We process personal data of our customers in compliance with the EU General Data Protection Regulation (GDPR). Please read our [privacy policy](#) for more information on our personal data processing. We also use cookies in providing our services. Please refer to our [cookie policy](#) for more information.

## **13. Liability**

**13.1.** Nothing in the T&C's excludes or limits our liability for any matter in respect of which it would be unlawful for us to exclude or restrict our liability. This may include (without limitation, depending on your country of residence): (i) death or personal injury caused by our negligence; and (ii) fraud or fraudulent misrepresentation.

**13.2.** To the maximum extent permitted by law, our liability is limited to losses or damages that are a foreseeable result of our breach of our obligations under these T&C's. Loss or damage is foreseeable if it was an obvious consequence of our breach or if it was contemplated by you and us at the time that the agreement between you and us for your order became binding. This means we are not liable, among other types of damages, for indirect or consequential damages such as those in the form of:

(a) loss of turnover; (b) loss of profit;

(c) interruption of business; and (d) damage claims of third parties.

**13.3.** We are also not liable for loss of data or damage to data.

**13.4.** The amount of our liability is at all times limited to the amount of the purchase price paid by you for your order from which our liability arises.

**13.5.** The limitations of liability do not apply in the case of intent or deliberate recklessness on the part of Photobox.

**13.6.** We are under a legal duty to provide you with products that are in conformity with the terms applying to your order. Nothing in the T&C's affects your statutory rights.

**13.7.** We are not responsible for images or other user content. You must not assume that accessing, the import or export, or the advertising, offering or purchase, of any product will comply with applicable law or regulation. Our websites or apps may contain links to or advertisements for other sites, services or products ("Third Party Promotions"). We are not responsible for the content of Third Party Promotions. The sites or other destinations

to which Third Party Promotions lead are governed by their own terms of use and privacy policies which will differ from these T&C's. The inclusion of links to Third Party Promotions does not indicate that we endorse them and we are not responsible for examining or evaluating the content of such sites or destinations or goods or services available through them.

## **14. Applicable law and competent court**

**14.1.** The legal relationship between us and you is governed by the laws of England and Wales. The applicability of the Vienna Sales Convention is excluded.

**14.2.** You may bring any dispute which may arise (contractual and non-contractual) between us and you under these T&C's to, at your discretion, either the competent court of England, or to the competent court of your country of habitual residence if this country of habitual residence is within the UK, which courts are (with the exclusion of any other court) competent to settle any such a dispute.

**14.3.** If you are a consumer resident in the European Union, and wish to have more information on online dispute resolution, you should follow this link to the website of the European Commission: <http://ec.europa.eu/consumers/odr/>. This link is provided as required by Regulation (EU) No 524/2013 of the European Parliament and of the Council, for information purposes only. We are not obliged to participate in online dispute resolution.

**14.4** If we direct our website, our apps or services to (and/or pursue our commercial or professional activities in relation to our website, our apps or services in) the country in which you are resident, you will benefit from any mandatory provisions of the law of the country in which you are resident. Nothing in these T&C's, including clause 14.1, affects your rights as a consumer to rely on such mandatory provisions of local law.

## **15. Other provisions**

**15.1.** Should a provision of these T&C's become partially or fully ineffective, the other provisions shall remain unaffected. The ineffective provision is, in such a case, considered to be replaced by a provision that is effective and differs as little as possible from the content and scope of the original provision.

**15.2.** We may make changes to these T&C's from time to time (if, for example, there is a change in the law or technical reason that means we need to change these T&C's). These changes will be effective as of their publication on the website and our apps, so it is important that the customer periodically reviews and consults these T&C's. The customer shall be entitled to terminate the T&C's if the modification adversely affects the customer, unless such adverse effect is minor. In said case, the customer shall be entitled to terminate the contract free of charge within thirty calendar days from receipt of the information or from the time when Photobox modifies the digital content or services, if this occurs later. Each order is subject to the version of the T&C's applicable at the time of the order.

**15.3.** The T&C's also apply on behalf of the legal persons or entities, auxiliary persons, and subordinates that we engage in performing the agreement.

**15.4.** The legal relationship between you and us and your rights and obligations under the agreement cannot be transferred without our prior written consent.

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# **Additional terms and conditions regarding online photo books and the inspiration gallery**

## **1. When and how these additional terms and conditions apply**

**1.1.** These are additional terms and conditions that apply to requesting an online version of a photo book you've ordered and to submitting it to our inspiration gallery. These additional terms and conditions form part of our T&C's.

**1.2.** When you request an online version of your photo book and when you submit your photo book to the inspiration gallery, you are informed that by doing so you accept these additional terms and conditions. They are available for you to review, which includes an option to print or save them for later examination, on the page where we offer you these services.

**1.3.** These additional terms and conditions are easily electronically accessible on our websites and our apps. Upon request they will be sent to you without delay and at no cost.

## **2. If you are under 16**

**2.1.** If you are under sixteen (16) years of age, you need permission from your parents or legal guardians for requesting an online version of your photo book or submitting it to the inspiration gallery. You guarantee that you are sixteen or older or that you have permission from your parents or legal guardians when you request an online version or submit it to the gallery.

## **3. Creating an online version of your photo book**

**3.1.** If you wish, you can request an online version of a photo book that you have ordered. You can submit your request to us in your account.

**3.2.** An online version of a photo book can be shared by email and through social media or embedded in a blog or website by making use of a public link that we create for you. The photo book is not indexed by search engines, such as Google, but it is available on the internet for anyone who has the link. We inform you thereof before you request your online photo book.

**3.3.** You can delete the online version of your photo book in your account at any time. As a result, the public link will no longer function and your photo book will not be available on the internet anymore, wherever you have shared it. Please do note our general remarks on how the internet works below.

## **4. Submitting your photo book to our inspiration gallery**

**4.1.** Online photo books can be submitted to the inspiration gallery on our website. If you submit your photo book, it will be added to the gallery and shown on our website as inspiration to others.

**4.2.** We will note your first name with your photo book. We may also add tags in order to show other customers photo books that may be relevant to them. Photo books in the inspiration gallery will be indexed by search engines, such as Google. We may also add pages of photo books in the gallery to our commercial messages, such as newsletters and in social media ads. We inform you of these things before you submit your photo book to the inspiration gallery.



**4.3.** You can delete your photo book from the inspiration gallery at any time. As a result, it will not be shown in the gallery anymore and if we used any of its pages in commercial messages, we will provide best efforts to delete these where we can. Please note we will not be able to delete content from newsletters that were sent. Search engines, such as Google, may also show thumbnails of pages in search results for some time longer, but the source will not be available anymore. Again, please do note our general remarks on how the internet works below.

**4.4.** We have the right not to publish your photo book or to delete it from the inspiration gallery at any time for any reason, without giving notice, including in case you act in breach of these additional terms and conditions or our general terms and conditions or our privacy policy.

## **5. You provide us with a licence to your photo book**

**5.1.** By requesting for an online version of your photo book and by submitting it to the inspiration gallery, you provide us with a non-exclusive, worldwide, royalty free licence to make your photo book and all of its contents available to the public and otherwise use it in the ways described in these additional terms and conditions.

**5.2.** Our licence to make the online version of your photo book available through a public link terminates when you delete the online version in your account. Our licence to use the photo book you submitted to the inspiration gallery terminates when you delete it from the gallery, with the exception of any content that was used in commercial messages that we are unable to delete will not be in breach of any of your rights or those of third parties.

**5.3.** You guarantee that your photo book and the photos in it are yours and do not infringe any third party rights, such as copyrights and including privacy rights and rights to one's portrait. You also guarantee that they are not in violation of criminal law, statutory provisions of mandatory civil or administrative law, public order, public morality or what according to unwritten law has to be regarded as proper social conduct. We refer to the article on user conduct in our general terms and conditions for more information on this subject.

**5.4.** To the maximum extent permitted by law, you will indemnify us, defend us and hold us harmless, including our affiliates, from and against any and all claims, costs, damages, losses, liabilities and expenses (including reasonable attorneys' fees and costs) arising out of or in connection with any claim in relation to a breach of third party rights or violation of the law by making your photo book available online, publishing it on our inspiration gallery or using it otherwise on the basis of these additional terms and conditions.

## **6. Privacy and data protection**

**6.1.** If you request for an online version of your photo book and if you submit a photo book to our inspiration gallery, we will process your photo book and all of its content, including your first name in the case of the gallery, in a new way. This processing is based on your consent.

**6.2.** You give consent in accordance with the requirements of the General Data Protection Regulation (EU2016/679 "GDPR") by checking a box with information on the processing before requesting the online version or submitting your photo book. Please also refer to our [privacy policy](#) for more information on the way we process personal data, which is also shown with the information next to the check box before you give consent.

**6.3.** You have the right to withdraw your consent at any time by deleting the online version or deleting the photo book from the gallery. Please note that the withdrawal of consent shall not affect the lawfulness of the processing before the withdrawal.

## **7. General remarks on how the internet works**

**7.1.** Notwithstanding the controls you have and the way we set up the services described in these additional terms and conditions, information on the internet is never fully under your or our control. Your photo book may for instance be saved by the persons you share it with, either by making screenshots of pages or otherwise. Therefore, even after you've deleted an online version of a photo book, the contents thereof may stay on other persons' computers and (either through them) on the internet. We trust you understand this and we are explicitly not liable for this.

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