

Terms of Supply

1. Introduction

1.1 This page (together with the documents referred to on it) tells you the terms and conditions (the "**Terms**") on which we supply any product or service (each, a "**Product**") listed on our website at www.photospecialist.co.uk (the "**Site**") to you. Please read these Terms carefully before ordering any Products from the Site. You acknowledge that by ordering any Products, you agree to be bound by these Terms.

1.2 You should print a copy of these Terms for future reference.

1.3 By clicking on the button confirming your order you accept these Terms and agree to be bound by them. Please note that clause 6 describes how the Contract between us is formed. If you do not wish to be bound by these Terms and/or disagree with them you must not use the Site and you must not order any Products from the Site.

2. Definitions

2.1 In these Terms, the following terms have the meanings ascribed to them:

"**Contract**" has the meaning given to that term in clause 6.2;

"**Dispatch Confirmation**" has the meaning given to that term in clause 6.2;

"**Force Majeure Event**" has the meaning given to that term in clause 20.1;

"**notice**" has the meaning given to that term in clause 18.1

"**Order Receipt**" has the meaning given to that term in clause 6.1;

"**Product**" has the meaning given to that term in clause 1.1 and any reference to Product or Products shall mean one or more products as the context requires;

"**Site**" has the meaning given to that term in clause 1.1;

"**Terms**" has the meaning given to that term in clause 1.1;

"**Warranty**" has the meaning given to that term in clause 14.1; and

"**we**" has the meaning given to that term in clause 3.1 and includes successors and assigns and the words "our" and "us" shall be construed accordingly.

3. About us

3.1 **We** are Foto Konijnenberg B.V., a company incorporated in Den Ham, Netherlands. Our registered office is at Kroezenhoek 8, 7683PM, Den Ham, Netherlands and our company registration number is 08148310.

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3.2 Our VAT number is: NL815950251B01

3.3 If you have any general questions or comments prior to the conclusion of a Contract, you may contact us via email to info@photospecialist.co.uk but you must send us any notice under these Terms and/or any Contract in accordance with clause 18.

4. Service availability

4.1 The Site is only intended for use by people resident in the United Kingdom.

4.2 We do not accept orders for a Product from individuals outside the United Kingdom nor do we wish to contract with individuals who are not resident in the United Kingdom.

5. Your status

5.1 By placing an order for a Product through the Site, you warrant that:

- (A) you are legally capable of entering into binding contracts;
- (B) you are at least 18 years old;
- (C) you are resident in the United Kingdom; and
- (D) you are accessing the Site from the United Kingdom.

6. Contract formation

6.1 You will have a chance to review your order before placing it and correct any errors it may contain. After placing an order, you will receive an e-mail from us acknowledging that we have received your order for a Product (the "**Order Receipt**").

6.2 You acknowledge and agree that the Order Receipt does not constitute our acceptance of your order and that your order constitutes an offer to us to buy a Product. All orders are subject to acceptance by us, and we will confirm such acceptance to you by sending you an e-mail that confirms that the Product has been dispatched (the "**Dispatch Confirmation**"). The contract between you and us, which shall incorporate these Terms by reference, (the "**Contract**") will only be formed when we send you the Dispatch Confirmation. The language of the Contract is English.

6.3 Please note that we will not file the Contract for you and that, subject to applicable law, it will not be accessible by you.

6.4 Unless expressly otherwise agreed, we may refuse any order. We may also choose to perform any order subject to specific terms and conditions. If we do not accept an order, we will give you notice of such refusal within 14 days after receiving the relevant order.

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6.5 You must supply us with all necessary information, documents or materials which we have requested on this Site for the purposes of fulfilling your order on time.

6.6 The Contract shall relate only to those Products whose dispatch we have confirmed in the Dispatch Confirmation. We will not be obliged to supply any other Products which may have been part of your order until the dispatch of such Products has been confirmed in a separate Dispatch Confirmation.

6.7 You acknowledge that we may have to perform work over and above what it is explicitly referred to in your Order Receipt if such work is reasonably required or ancillary to your Order Receipt. Such work forms part of the Product in question. You will be notified in the Dispatch Confirmation if such additional work is required and at what cost. Please contact us as soon as possible (and in any event within 14 days of your receipt of the relevant Product) if you do not agree to such additional work being performed and please note, in particular, your rights to cancel described in clause 8.

6.8 You acknowledge and agree that any reference by you to your own terms and conditions, a standard clause on your letterhead, a clause in your own terms and conditions stipulating their exclusive application and any other terms and conditions you wish to apply in place of or in addition to the Terms or any Contract shall be void and not apply to these Terms or any Contract.

6.9 Please note that this clause does not apply to contracts to which clause 7 applies.

7. Our status

7.1 Please note that in some cases, we accept orders as agents on behalf of third party sellers. The resulting legal contract is between you and that third party seller, and is subject to the terms and conditions of that third party seller, which they will advise you of themselves. You should carefully review such third party terms and conditions applying to the transaction.

7.2 We may also provide links on the Site to the websites of other companies, whether affiliated with us or not. We cannot give any undertaking that products you purchase from third party sellers through the Site, or from companies to whose website we have provided a link on the Site, will be of satisfactory quality, and any such warranties are disclaimed by us absolutely. This disclaimer does not affect your statutory rights against the third party seller. We will notify you when a third party is involved in a transaction, and we may disclose your customer information related to that transaction to the third party seller.

8. Consumer rights

8.1 If you are contracting as a consumer and not as a business, you may cancel a Contract at any time within 14 working days, beginning on the day after you received the Product. In this case, you

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will receive a full refund of the price paid for the Product in accordance with our refunds policy (set out in clause 13 below).

8.2 To cancel a Contract, you must inform us in writing.

8.3 If you cancel a Contract or it is terminated for any reason, save as otherwise expressly set out herein, you must also return the Product to us at the address set out in clause 18.1 as soon as reasonably practicable, and at your own cost. You have a legal obligation to take reasonable care of the Products while they are in your possession and until we receive them at our aforementioned address. If you fail to comply with this obligation, we may have a right of action against you for compensation.

8.4 If you are contracting as a business and not as a consumer, you must also return the Product in its original packaging. If you are contracting as a consumer, we ask that you return the Product in its original packaging.

8.5 You will not have any right to cancel a Contract for the supply of any of the following:

- (A) if we provide you with a service and you have explicitly consented to us starting to provide the service before the end of the cancellation period set out in clause 8.1;
- (B) if the Product has been made to your specifications or clearly personalised or if the Product can by reason of its nature not be returned or is liable to deteriorate or expire rapidly;
- (C) if the Product is an audio or video recording or computer software (for example, those supplied as DVDs) and if you have unsealed them;
- (D) if the Product is a newspaper, periodical or magazine; and
- (E) if the Product is a gaming, betting or lottery service.

8.6 Details of your statutory right of cancellation, and an explanation of how to exercise it, are provided in the Dispatch Confirmation. This clause 8 does not affect your other statutory rights as a consumer.

9. Availability and delivery

9.1 Your order will be fulfilled by the delivery date set out in the Dispatch Confirmation or, if no delivery date is specified, then within 30 days of the date of the Dispatch Confirmation, unless there are exceptional circumstances. The delivery costs are available via the Site.

9.2 For the purposes of clause 20, it shall be a Force Majeure Event if we are prevented from arranging delivery due to circumstances which are reasonably attributable to you. In such circumstances, we shall be entitled to store the relevant Product which we have made available for you to collect, at your risk and expense. Delivery shall be deemed to have been effected when we notify you in writing that we have put the relevant Product in storage. You acknowledge and agree to pay us

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reasonable storage fees.

9.3 If you fail to collect a Product within 3 months after receiving the second of two consecutive written notices from us – the last of which by registered post – we may sell that Product to recover any sums you owe us.

9.4 We may deliver any Product in parts unless it would be unreasonable to do so. If a Product is delivered in parts we may issue a separate invoice for each.

10. Risk and title

10.1 The Product will be at your risk from the time of delivery to you.

10.2 Ownership of the Product will only pass to you when we receive full payment of all sums due in respect of the Product, including delivery charges.

11. Inspection and defects

11.1 You shall inspect the Product within a reasonable time upon delivery to ensure that what has been supplied complies with the relevant Contract, including:

- (A) whether the correct Product has been delivered; and
- (B) whether the quantity of the Product delivered complies with what has been agreed.

12. Price and payment

12.1 For technical reasons, we only accept orders for Products in Euros. When you order a Product, its price will be clearly shown in Euros and will also be set out on the Dispatch Confirmation. Please therefore note that any price displayed on the Site in Pounds Sterling is for your information only.

12.2 Subject to clause 12.7, the price of the Products and our delivery charges will be as quoted on the Site in Euros from time to time, except in cases of obvious error.

12.3 Product prices include VAT.

12.4 Payment for the Product must be by credit or debit card and relevant information and authorisation therefor must be provided at the time of placing the order. We accept payment with Visa, Mastercard and via bank transfer.

12.5 For technical reasons, if you pay by credit or debit card we will provisionally charge your card upon you placing the order and completing the relevant card payment process. We will promptly refund you if we do not issue a Dispatch Confirmation or if you cancel the Contract as set out in

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clause 8. If we issue a Dispatch Confirmation, we will apply the sum we charged your card towards the price of the Product.

12.6 Product prices and delivery charges are liable to change at any time, but changes will not affect orders in respect of which we have already sent you a Dispatch Confirmation.

12.7 The Site contains a large number of Products and it is always possible that, despite our best efforts, some of the Products listed on the Site may be incorrectly priced or described incorrectly. If a Product's correct price is higher than the price stated on the Site or if the description on the Site is incorrect, we will normally, at our discretion, either contact you for instructions before dispatching the Product, or reject your order and notify you of such rejection.

12.8 We are under no obligation to provide a Product to you at the incorrect price (whether lower or higher than the actual price of the Product) or matching an incorrect description, even after we have sent you a Dispatch Confirmation, if the pricing error or the error in the description is obvious and unmistakable and could have reasonably been recognised by you as an error.

12.9 Please note that the Product you receive under a Contract may be slightly different from that described on the Site (for example, by colour). If you are unhappy with this please exercise your rights of cancellation as described in clause 8.

12.10 Payment shall be effected in accordance with clause 12.4 without any set-off and/or discount. If you fail to ensure prompt payment of any amount that you owe, you are liable to pay interest amounting to 2% over the base rate from time to time of Barclays Bank PLC (whether before or after judgment) on the outstanding amount. If you fail to ensure prompt payment of any amount you owe, you shall pay us our reasonable costs in obtaining payment from you (including our reasonable costs in issuing proceedings).

13. Our refunds policy

13.1 If you return a Product to us because you have cancelled the Contract between you and us within the 14 day period described in clause 8.1 above, we will process the refund due to you as soon as possible and, in any case, within 30 days of the day you gave notice of cancellation. In this case, we will refund the price of the Product in full, and any applicable delivery charges. However, you will be responsible for the cost of returning the item to us.

13.2 If you return a Product to us for any reason other than that referred to in clause 13.1 (for instance, because you consider that the Product is defective or because you have notified us in accordance with clause 24 that you do not agree to a change in these Terms), we will examine the returned Product and will notify you of your refund via e-mail within a reasonable period of time. We will usually process the refund due to you as soon as possible and, in any case, within 30 days of the day we

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confirmed to you via e-mail that you were entitled to a refund. We will refund the price of a defective Product in full, any applicable delivery charges and any reasonable costs you incur in returning the item to us.

13.3 We will usually refund any money received from you using the same method originally used by you to pay for your purchase.

14. Warranty

14.1 We warrant to you that any Product purchased from us through the Site will, on delivery and for the following 24 months conform in all material respects with its description, be of satisfactory quality, and be reasonably fit for all the purposes for which products of that kind are commonly supplied (the "**Warranty**").

14.2 If any Product is subject to further warranties by that Product's manufacturer or importer, you may also approach such manufacturer or importer directly with any complaint.

14.3 Any parts that are replaced as a result of us performing any remedial actions under the Warranty, shall become our property.

14.4 If you wish to claim under the Warranty, please send the defective Product to us at Foto Konijnenberg, Department Repair, Kroezenhoek 8, 7683 PM Den Ham, Netherlands for us to either repair or replace the Product within a reasonable period of time. We may refuse to repair or replace a Product if such repair or replacement would be disproportionate or impossible. If we refuse to repair or replace a Product we will provide you with a refund in accordance with clause 13.

15. Termination

15.1 We may terminate any Contract at any time by giving you written notice thereof in accordance with clause 18.

16. Our liability

16.1 Subject to clause 16.3, if we fail to comply with these Terms, we shall only be liable to you for the purchase price of the Products and, subject to clause 16.2, any losses that you suffer as a result of our failure to comply (whether arising in contract, tort (including negligence), breach of statutory duty or otherwise) which are a foreseeable consequence of such failure.

16.2 Subject to clause 16.3, we will not be liable for losses that result from our failure to comply with these Terms that fall into the following categories even if such losses result from our deliberate breach:

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- (A) loss of income or revenue;
- (B) loss of business;
- (C) loss of profits;
- (D) loss of anticipated savings;
- (E) loss of data; or
- (F) waste of management or office time.

However, this clause 16.2 will not prevent claims for loss of or damage to your tangible property that are foreseeable or any other claims for direct loss that are not excluded by categories (A) to (F) inclusive of this clause 16.2.

16.3 Nothing in these Terms excludes or limits our liability for:

- (A) death or personal injury caused by our negligence;
- (B) fraud or fraudulent misrepresentation;
- (C) any breach of the obligations implied by section 12 of the Sale of Goods Act 1979;
- (D) defective products under the Consumer Protection Act 1987;
- (E) any other matter for which it would be illegal for us to exclude or attempt to exclude our liability.

16.4 Where you buy any Product from a third party seller through the Site, the seller's individual liability will be set out in the seller's Terms.

17. Written communications

17.1 Applicable laws require that some of the information or communications we send to you should be in writing. When using the Site, you accept that communication with us will be mainly electronic. We will contact you by e-mail or provide you with information by posting notices on the Site. For contractual purposes, you agree to this electronic means of communication and you acknowledge that all contracts, notices, information and other communications that we provide to you electronically comply with any legal requirement that such communications be in writing. This condition does not affect your statutory rights.

18. Notices

18.1 Save where clause 3.3 applies, all notices, information and other communications ("**notice**") given by you to us must be given to:

Foto Konijnenberg
Kroezenhoek 8
7683PM Den Ham
Netherlands

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18.2 We may give notice to you at either the e-mail or postal address you provide to us when placing an order, or in any of the ways specified in clause 17 above.

18.3 Notice will be deemed received and properly served immediately when whichever of the following occurs as is relevant: it is posted on the Site, 24 hours after an e-mail is sent, or 3 days after the date of posting of any letter.

18.4 In proving the service of any notice, it will be sufficient to prove, in the case of a letter, that such letter was properly addressed, stamped and placed in the post and, in the case of an e-mail, that such e-mail was sent to the specified e-mail address of the addressee.

19. Transfer of rights and obligations

19.1 The contract between you and us is binding on you and us and on our respective successors and assignees.

19.2 You may not transfer, assign, charge or otherwise dispose of a Contract, or any of your rights or obligations arising under it, without our prior written consent.

19.3 We may transfer, assign, charge, sub-contract or otherwise dispose of a Contract, or any of our rights or obligations arising under it, at any time during the term of the Contract.

20. Events outside our control

20.1 We will not be liable or responsible for any failure to perform, or delay in performance of, any of our obligations under a Contract that is caused by events outside our reasonable control (a "**Force Majeure Event**").

20.2 A Force Majeure Event includes any act, event, non-happening, omission or accident beyond our reasonable control and includes in particular (without limitation) the following:

- (A) strikes, lock-outs or other industrial action;
- (B) civil commotion, riot, invasion, terrorist attack or threat of terrorist attack, war (whether declared or not) or threat or preparation for war;
- (C) fire, explosion, storm, flood, earthquake, subsidence, epidemic or other natural disaster;
- (D) impossibility of the use of railways, shipping, aircraft, motor transport or other means of public or private transport;
- (E) impossibility of the use of public or private telecommunications networks; and
- (F) the acts, decrees, legislation, regulations or restrictions of any government.

20.3 Our performance under any Contract is deemed to be suspended for the period that the Force Majeure Event continues, and we will have an extension of time for performance for the duration of

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that period. We will use our reasonable endeavours to bring the Force Majeure Event to a close or to find a solution by which our obligations under the Contract may be performed despite the Force Majeure Event.

21. Waiver

21.1 If we fail at any time to insist upon strict performance of any of your obligations under a Contract or any of these Terms, or if we fail to exercise any of the rights or remedies to which we are entitled under a Contract, this will not constitute a waiver of such rights or remedies and will not relieve you from compliance with such obligations.

21.2 A waiver by us of any default will not constitute a waiver of any subsequent default.

21.3 No waiver by us of any of these Terms will be effective unless it is expressly stated to be a waiver and is communicated to you in writing in accordance with clause 18 above.

22. Severability

22.1 If any provision of these Terms or of a Contract are determined by any competent authority to be invalid, unlawful or unenforceable to any extent, such provision will to that extent be severed from the remaining provisions which will continue to be valid to the fullest extent permitted by law.

23. Entire agreement

23.1 These Terms and any document expressly referred to in them constitute the whole agreement between us and supersede all previous discussions, correspondence, negotiations, previous arrangement, understanding or agreement between us relating to the subject matter of any Contract.

23.2 We each acknowledge that, in entering into a Contract, neither of us relies on, or will have any remedies in respect of, any representation or warranty (whether made innocently or negligently) that is not set out in these Terms or the documents referred to in them.

23.3 Each of us agrees that our only liability in respect of those representations and warranties that are set out in a Contract (whether made innocently or negligently) will be for breach of contract.

23.4 We intend to rely upon these Terms and any document expressly referred to in them in relation to the subject matter of any Contract.

24. Amendments

24.1 We have the right to revise and amend these Terms from time to time.

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24.2 You will be subject to the Terms in force at the time that you order a Product from us, unless any change to these Terms is required to be made by law or governmental authority (in which case it will apply to orders previously placed by you), or if we notify you of the change to these Terms before we send you the Dispatch Confirmation (in which case we have the right to assume that you have accepted the change to the Terms, unless you notify us to the contrary within 14 working days of receipt by you of the Products).

25. Law and jurisdiction

25.1 All Contracts for the purchase of Products through the Site and any dispute or claim arising out of or in connection with them or their subject matter or formation (including non-contractual disputes or claims) will be governed by English law.

25.2 Any dispute or claim arising out of or in connection with such Contracts or their subject matter or their formation (including non-contractual disputes or claims) will be subject to the exclusive jurisdiction of the courts of England and Wales.