

Bookemon Membership Agreement

The terms and conditions set forth in this agreement apply to all visitors ("Member" or "you") to the Bookemon website or other web sites owned or operated by Bookemon (the "Sites"), and constitute a binding, legal agreement ("Agreement") between the Member and Bookemon Inc. ("Bookemon"). Please read the information below carefully. By using the Sites, you accept the terms and conditions described below, and you warrant and represent that you have the legal capacity to enter into this Agreement.

1. Introduction

The Sites are designed to provide tools for Members to publish and printing of their own Content. Digital and Printed content ("Content") may consist of information, data, text, photographs, graphics, messages or other materials. Bookemon is not a publisher and do not review works published on our Sites. However, Bookemon reserves the right to remove any Content deemed to be inappropriate and/or illegal from the Sites.

2. Content

As a Member uploading your work to the Sites, you retain your copyright in the Content. You do, however, grant Bookemon the right to post, display, copy, sell, and distribute that Content within the limitations you set during the online publishing process. If you include any information that could be used to identify you, such as your personal phone number, e-mail address or a government-issued ID number, (collectively "Personal Data") in the Content that you authorize Bookemon to post, display, copy, sell and distribute, then you will have also authorized Bookemon to disclose that Personal Data as part of the Content within the limitations set by you during the online publishing process. You should not include Personal Data about other people in your Content.

You also grant Bookemon the right to excerpt your Content, excluding any Personal Data that may have been included, for use in marketing materials, providing that we credit you and/or the original artist. You further agree that Bookemon make minor modifications to the Content for technical reasons.

By uploading Content to the Sites you represent and warrant, at all times during the term of this Agreement, that the Content:

1. Is owned by you, or to the extent owned by someone else, that you have obtained that party's permission to provide the Content to Bookemon for use, copying and distribution under the license in this Agreement. Whether the Content you provide to Bookemon was authored by you or another person, you represent and warrant that it does not contain any Personal Data about any individual other than you;
2. Does not violate any copyright, trademark, trade secret or other intellectual property right of any third party;
3. Does not invade any individual's right of privacy or publicity;
4. Does not contain material that is unlawful, obscene, defamatory, pornographic, indecent, lewd, harassing, threatening, harmful, invasive of privacy or publicity rights, abusive, inflammatory, or otherwise objectionable,
5. Does not include malicious code, which includes, without limitation, viruses, Trojan horses, worms, time bombs, cancelbots, or any other computer programming routines that may damage, interfere with, surreptitiously intercept, or expropriate any system, program, data, or personal information (including Personal Data);
6. Does not break the law, facilitate the breaking of the law, or violate any applicable regulation or Bookemon rule or policy;

7. Does not offer or disseminate fraudulent goods, services, schemes, or promotions, or hyperlinks that constitute commercial content such as that found in advertising, promotions, or solicitations;
8. To the best of your knowledge, all factual information in the Content you upload is true and accurate, and the use of any recipe, formula, or instruction in the Content will not result in personal injury to any person. Despite all this, Bookemon cannot guarantee the accuracy, integrity or quality of Content.

Bookemon reserves the right to refuse to permit your publication on the Sites of any Content that Bookemon, in its sole discretion, deems in violation of the terms and conditions set forth above. In addition, you represent and warrant that you have the legal capacity to enter into this Agreement, and that the entering into of this Agreement does not conflict with any arrangements or agreements between you and any other person or entity.

3. Community Use

You understand that Content, whether publicly posted or privately transmitted, is the sole responsibility of the person from whom such Content originated. Bookemon does not guarantee or warrant that any Content you send to Bookemon will not be subject to inadvertent damage, corruption or destruction. You are responsible for backing up, on your own computer, all Content. Bookemon will not be responsible for archiving or backing-up any Content. If any Content transmitted to Bookemon is damaged, lost or corrupted in any way, Bookemon will have no obligation or liability to you. You are solely responsible for all Content you generate or forward to Bookemon.

As a Member, you agree not to use the Sites to:

1. Upload, post or otherwise transmit any Content that is unlawful, harmful, threatening, abusive, harassing, tortious, defamatory, vulgar, obscene, libelous, invasive of another's privacy, hateful, or racially, ethnically or otherwise objectionable;
2. Harm anyone, including minors, in any way;
3. Use "spam," "blast-faxes," or recorded telephone messages to market or sell Content;
4. Interfere with the operation of the Sites via the use of viruses, programs or technology designed to disrupt or damage software or hardware;
5. Employ a robot, spider or other process or device to harvest e-mail addresses or other Member information or to monitor the activity on the Sites.
6. Impersonate another person or entity or to forge any e-mail communication or message; and
7. Transmit or post Content that violates the terms described in the section of this Agreement specifically dedicated to Content.

In addition to complying with all restrictions on conduct and Content, you are responsible for adhering to all local and national laws that pertain to your location, wherever you are.

Bookemon reserves the right to remove any and all material that we feel is inappropriate or illegal, or offensive, or potentially or actually harmful in any respect. At our discretion, we will remove Content and/or ban Members who violate our policies with respect to the Sites. We reserve the right to amend our policies from time to time in our sole discretion.

4. Returns

Content that has been purchased will be accepted for return only if it is damaged when received by the purchaser. If you receive a book, greeting cards or a poster that is damaged in some way (missing, torn, or loose pages in books, etc.), we will be happy to provide a replacement copy. [Please notify us](#)

[by contacting our customer service with a detailed order history and problem related to the order.](#)

Bookemon cannot guarantee the quality of the Content hosted at the Sites. Because Bookemon provides a creator-controlled publishing tool, the company cannot accept responsibility for the quality of the Content purchased (including misspelled words, grammatical errors, etc.), its formatting, design or overall appearance. The Member approves the visual presentation and content of each item and bears responsibility for its quality and presentation. Bookemon's staff does not monitor or check individual Content prior to publication through the Sites.

5. Member Registration and Information

We want to make sure that you have correctly completed the information in the Member Registration form on the Sites ("Member Information"). In the event that any of your Member Information changes in the future, please be sure to promptly update your Member Information on the Sites. Remember, it is your responsibility to keep current all of your Member Information on the Sites.

You will have the opportunity to select a Member ID and Password during the Member registration process. You are solely responsible in all respects for: (a) all use of the Sites made using your Member ID and Password, and (b) maintaining the confidentiality of your Member ID and Password. You agree to notify us immediately of any unauthorized use of your e-mail address, Member ID or Password or any other breach of security regarding the Sites of which you are aware. Bookemon may refuse to grant you a Member ID or Password that impersonates someone else, is protected by trademark or other proprietary right law, is vulgar or otherwise offensive, or for any other reason.

6. Special Provisions for Educators

By applying for an edCenter at Bookemon, you have represented that you are an Educator in the capacity of a *K12 teacher, K12 school administrator or staff member* and that you will agree to following additional terms:

By creating an edCenter and acting as its founder, you promise that:

1. You are a licensed teacher, librarian, guidance counselor, coach, administrator or other public school employee directly serving students and currently employed at the school you select;
2. The activity you propose is legal and falls within the standards of your board of education; all information you provide to Bookemon is accurate, and you will promptly update the information to keep it accurate;
3. You have full rights to the use of school logos, descriptions and materials you submit to Bookemon, and that you (and not Bookemon) are solely responsible for such submission, including its legality and appropriateness, and that use of materials submitted by you to Bookemon will not infringe on any rights of any third party.
4. You have reviewed and accepted the Bookemon User Policy in regards to the user of the edCenter and that you will review periodically the conduct of the members at your edCenter to insure they are in compliance with the above policy and other policy you have uploaded and added to your edCenter.

Educator's Responsibilities

You will be responsible for the use and maintenance of the edCenter's membership and security. You have agreed that you will not share your account's registered email address and password with anyone else in the administration and management of your edCenter. You are solely responsible for any and all use of your account and for any actions that take place using your account.

In addition to the rights of Bookemon described elsewhere in this agreement, you agree to guard the privacy of photographs of students and warrant that materials submitted do not contain any of the personal information that will identify the student. Recognizing the critical importance of these restrictions in protecting the rights and privacy of the participants, you agree that any breach by you of any of these restrictions may cause Bookemon and others to suffer irreparable loss, damage and harm

in an amount not easily ascertained, and therefore agree that Bookemon may immediately seek an injunction against you to stop your distribution, display, or copying of any such materials and you waive any objection to the scope or venue of such an action.

From time to time, Bookemon or a third party on Bookemon's behalf may send you emails regarding important information regarding your use of the Sites. Even if the electronic communication system that sends such emails to your account contains an "opt-out" feature, you acknowledge and agree that it is your responsibility to be aware of the information contained in these emails.

7. Retiring Content and/or Terminating Membership

If you wish to terminate your Membership, [please contact our support with a specific request to do so](#). When you choose to 'retire' or 'delete' your Content from Bookemon, it will no longer be available or visible to other visitors. However, Bookemon will be permitted to fulfill all outstanding orders for the Content in a timely fashion. Bookemon does not retain any residual rights to deleted or retired work other than those outlined above.

If you choose to terminate your Membership, the terms above regarding the status of Content you have uploaded remain applicable.

8. Author Payment

During the publishing process, you are given the option to set an Author Profit when your Content is sold to the public at the Bookemon store. As a member of Bookemon, you agree to participate in [Bookemon's Volume Discount program](#) offered to book purchasers. You also agree that Bookemon has the sole discretion in the determination of the discounts being offered to purchasers. In the case when volume discounts are being offered to purchasers of your book, your Author Profit will be reduced proportional to the discounts being applied to the purchases of your book.

After we have received payment from sale of your Content, you are entitled to be paid in the amount equal to the author profit for each unit of Content sold. In general, Bookemon charges a merchandising fee equal to 20% of the Author Profit set by you. This fee is added to the list price of the book and doesn't affect your Author Profit. However, if you choose not to profit from the sale of your Content by setting the author profit to zero, there will be no merchandising fee charged by Bookemon.

If you have published and sold Content on the Site, the amount of Author Profit that are owed to you will be displayed under the "Author Payment" link that can be found within the Account Information section of the Manage tab at "Your Profile (Userid)" page on the site. In order to receive author payment, you must possess a PayPal account (<https://www.paypal.com/>). All payments are made in US dollars.

Author payment will be made on a quarterly basis via PayPal, no later than 30 days following the end of each calendar quarter. Bookemon will make a good faith effort to pay you, using the contact and account information in our records. If Bookemon owes you less than \$20 for cumulative Author Profit generated prior to the end of a given quarter, we reserve the right, at our discretion, to roll your Author Profit forward to the following quarter until \$20 is reached. It is your responsibility to update your contact information if it changes. If your account is inactive or terminated and we are unable to contact you using the contact information provided, we may also, at our discretion, charge a termination fee equal to the amount of unpaid Author Profit to cover administrative costs.

9. Restrictions on Use of Content

If you purchase Content off of the Sites, you agree to the following restrictions with respect to such acquired Content and the information contained therein:

1. Sharing, copying, adapting, redistributing, reconfiguring, modifying or creating derivative work from the Content is permissible only if explicitly designated in the permissions included with the Content at purchase and only to the extent so explicitly designated. You agree to abide by any restrictions included with the Content;

2. The content owners who sell Content through Bookemon retain ownership of the copyrights or other licenses in the Content. You agree not to allow any other party to: resell, redistribute, sublicense, assign, delegate, or otherwise transfer this Agreement, the Content, any part thereof, or any related rights or obligations hereunder, to any third party.
3. You will not remove or obscure any proprietary rights notices contained in or on the Content.

10. Operation of Sites

Bookemon may at its discretion suspend or terminate operation of the Sites for maintenance or other reasons. In addition, technical and other issues may make Bookemon unavailable from time to time. Bookemon makes no commitment, warranty or guarantee that the Sites will operate in a timely, uninterrupted or error-free manner, or that the Sites will meet Member's purposes. Bookemon may also in its discretion modify the features, availability, operation and/or look and feel of the Sites from time to time without notice to our Members.

11. International Members

Bookemon makes no representations that Content on the Sites are appropriate or available for use to locations outside of the United States. You may not use the Sites or export the Contents in violation of U.S. export regulations. Those who access or use the Sites from other jurisdictions do so at their own volition and are responsible for compliance with local laws.

12. Disclaimers

The Sites and all software, services, information, materials, forums, tools and Content provided or offered on the Sites are provided or offered by Bookemon and its third-party licensors and content providers on an "as-is," "as-available" basis, without representation or warranty of any kind by Bookemon, including but not limited to the implied warranties of merchantability, non-infringement and fitness for a particular purpose. Without limiting the prior statement, Bookemon cannot vouch for the quality, accuracy, completeness, or currentness of any Content or information sold or provided through the Sites.

YOU AGREE THAT YOUR USE OF THE SITES SHALL BE AT YOUR SOLE RISK TO THE FULLEST EXTENT PERMITTED BY LAW, BOOKEMON, ITS OFFICERS, DIRECTORS, EMPLOYEES, AND AGENTS DISCLAIM ALL WARRANTIES, EXPRESS OR IMPLIED, IN CONNECTION WITH THE SITES AND YOUR USE THEREOF. BOOKEMON MAKES NO WARRANTIES OR REPRESENTATIONS ABOUT THE ACCURACY OR COMPLETENESS OF THIS SITE'S CONTENT OR THE CONTENT OF ANY SITES LINKED TO THIS SITE AND ASSUMES NO LIABILITY OR RESPONSIBILITY FOR ANY (I) ERRORS, MISTAKES, OR INACCURACIES OF CONTENT, (II) PERSONAL INJURY OR PROPERTY DAMAGE, OF ANY NATURE WHATSOEVER, RESULTING FROM YOUR ACCESS TO AND USE OF OUR SITE, (III) ANY UNAUTHORIZED ACCESS TO OR USE OF OUR SECURE SERVERS AND/OR ANY AND ALL PERSONAL INFORMATION AND/OR FINANCIAL INFORMATION STORED THEREIN, (IV) ANY INTERRUPTION OR CESSATION OF TRANSMISSION TO OR FROM OUR SITES, (V) ANY BUGS, VIRUSES, TROJAN HORSES, OR THE LIKE WHICH MAY BE TRANSMITTED TO OR THROUGH OUR SITES BY ANY THIRD PARTY, AND/OR (VI) ANY ERRORS OR OMISSIONS IN ANY CONTENT OR FOR ANY LOSS OR DAMAGE OF ANY KIND INCURRED AS A RESULT OF THE USE OF ANY CONTENT POSTED, EMAILED, TRANSMITTED, OR OTHERWISE MADE AVAILABLE VIA THE BOOKEMON WEBSITE. BOOKEMON DOES NOT WARRANT, ENDORSE, GUARANTEE, OR ASSUME RESPONSIBILITY FOR ANY PRODUCT OR SERVICE ADVERTISED OR OFFERED BY A THIRD PARTY THROUGH THE SITES OR ANY HYPERLINKED WEBSITE OR FEATURED IN ANY BANNER OR OTHER ADVERTISING, AND BOOKEMON WILL NOT BE A PARTY TO OR IN ANY WAY BE RESPONSIBLE FOR MONITORING ANY TRANSACTION BETWEEN YOU AND THIRD-PARTY PROVIDERS OF PRODUCTS OR SERVICES. AS WITH THE PURCHASE OF A PRODUCT OR SERVICE THROUGH ANY MEDIUM OR IN ANY

ENVIRONMENT, YOU SHOULD USE YOUR BEST JUDGMENT AND EXERCISE CAUTION WHERE APPROPRIATE.

BOOKEMON FURTHER DOES NOT REPRESENT OR WARRANT THAT DOWNLOADING OF CONTENT OR USE OF THE SITES WILL BE SUCCESSFUL, NOR THAT ANY SUCH DOWNLOADING OR USE WILL NOT CAUSE DAMAGE TO YOUR COMPUTER, DATA, SOFTWARE, FILES OR PERIPHERALS. BOOKEMON WILL HAVE NO LIABILITY FOR ANY DAMAGE THERETO ARISING FROM YOUR USE OF THE SITES AND DOWNLOADING OF CONTENT.

13. Limitation of Liability

In no event shall Bookemon LLC or any of its officers, employees, directors, affiliates, agents or third-party licensors and content providers be liable to you or anyone else for any special, consequential, indirect, cover, punitive, incidental or similar damages (including, without limitation, lost profits, lost sales, or lost business) directly or indirectly related to or arising out of the Sites, Content on the Sites, or any transaction entered hereunder, whether in contract, tort or otherwise, even if Bookemon or one of its officers, employees, affiliates or agents has been advised of the possibility of such damages. You agree that the liability of Bookemon, officers, employees, its affiliates, and agents, if any, arising out of any kind of legal claim (whether in contract, tort or otherwise) in any way connected with any transaction entered hereunder or the Sites shall not exceed the amount you paid to Bookemon in connection with the transaction giving rise to such claim. Any action under this Agreement must be commenced within one (1) year after such cause of action occurs.

THE FOREGOING LIMITATION APPLIES TO THE ACTS, OMISSIONS, NEGLIGENCE AND GROSS NEGLIGENCE OF BOOKEMON, ITS OFFICERS, EMPLOYEES, AFFILIATES AND AGENTS WHICH, BUT FOR THIS PROVISION, WOULD GIVE RISE TO THE CAUSE OF ACTION AGAINST BOOKEMON IN CONTRACT, TORT, OR ANY OTHER LEGAL DOCTRINE. YOUR SOLE AND EXCLUSIVE REMEDIES UNDER THIS AGREEMENT ARE AS EXPRESSLY SET OUT IN THIS AGREEMENT. ANY WARRANTY GIVES YOU SPECIFIC LEGAL RIGHTS. YOU MAY ALSO HAVE OTHER RIGHTS, WHICH VARY FROM STATE TO STATE.

14. Indemnification

You shall indemnify and hold Bookemon harmless against all third party claims, demands, suits, actions, judgments, losses, costs, damages (direct, indirect and consequential), attorney's fees and expenses that Bookemon may sustain or incur by reason of any breach or alleged breach of any representation, warranty, term or condition of this Agreement, and for any act or omission of you which is in any way related thereto.

15. Proprietary Rights

Bookemon is the owner of all intellectual property rights, including all copyright, patents, and trademarks, associated with the Sites, with all rights reserved, exclusive of content provided by third parties (including Content), which is owned by the licensors of such content. Bookemon authorizes Members of this website to utilize the Sites and copy materials posted on the Sites strictly for their own personal, non-commercial use. Any and all other uses of the materials posted on the Sites are prohibited. Notwithstanding this reservation of rights, the authorization granted herein does not extend to the design, format, or layout of this website, which may be further protected under applicable trade dress, trademark, or copyright laws. All copyright, patent, trademark, and other intellectual property-related notices must remain affixed to any materials downloaded from this website. Failure to maintain such notices voids the authorization granted above. In granting this authorization, Bookemon grants no other right, title, ownership, license, or other property interest in the materials and subject matter posted on the Sites, and in any intellectual property rights protecting such materials and subject matter. The Bookemon logo and the names of all Bookemon products and/or services as posted herein are trademarks or service marks, or registered trademarks and/or service marks of Bookemon.

16. Miscellaneous

This Agreement is binding. No amendments or modifications may be made except as set forth in the Agreement, specifically including the Amendments section below, or in a written document signed by both parties. The United Nations Convention on Contracts for the International Sale of Goods shall not apply to this Agreement.

The failure by any party to exercise any right provided herein shall not be deemed a waiver or forfeiture of any such right.

Every provision of this Agreement is intended to be severable. If any section of this Agreement is found to be invalid or unenforceable, then such section will be deemed amended and interpreted, if possible, in a way that renders it enforceable. If such an interpretation is not possible, then the section will be deemed removed from this Agreement and the rest of this Agreement will remain in full force and effect.

This Agreement is governed by the laws of the State of California, without regard to its choice of law provisions. The parties agree that any dispute involving Bookemon LLC related to this Agreement or the Sites that cannot be settled by good faith negotiation shall be submitted to arbitration in accordance with the rules of the American Arbitration Association. The location of the arbitration shall be San Jose, California. The arbitration shall be conducted by a single arbitrator with experience in computer/technology matters and in the publishing industry. The decision of the arbitrator shall be legally binding, shall not be subject to appeal, and shall be enforceable in any court of competent jurisdiction.

Each party shall be excused from performance and shall not be liable for any delay caused by the occurrence of any contingency beyond the reasonable control either of the excused party or its subcontractors or suppliers, except for obligations to make payments hereunder. These contingencies include, but are not limited to, war, sabotage, insurrection, riot or other act of civil disobedience, labor disturbance or shortage, act of public enemy or terrorist, failure or delay in transportation, act of any government affecting the terms hereof, accident, fire, explosion, flood, severe weather or other act of God.

This Agreement does not designate either party as the agent, employee, legal representative, partner or joint venturer of the other party for any purpose whatsoever.

17. Term

This Agreement is effective until terminated. Bookemon may terminate or suspend this Agreement immediately for any reason and without prior notice to you. [You may terminate your Membership by contacting support with a specific request to do so.](#) Your request to terminate will become effective within 30 days after receipt of your specific request has been acknowledged by Bookemon. If you choose to terminate your Membership, the terms of this Agreement regarding any Content you have uploaded remain applicable. All provisions of this Agreement relating to disclaimers, limitations of liability, indemnification, confidentiality, and proprietary rights shall survive termination.

18. Agreement and Amendments

By completing the registration process and using the Sites, you are confirming that you have the full power and authority to enter into and perform in accordance with the terms of this Agreement. You also agree that this Agreement is a legal, valid and binding obligation, and that its terms and conditions can be enforced. We encourage you to print and keep a copy for reference.

Bookemon may change the terms in this Agreement from time to time. When the terms are changed, Bookemon will make a posting on the Sites regarding the change. You agree to review the terms of this Agreement from time to time. If you do not agree to be bound by any future changes, you should promptly notify Bookemon and discontinue your use of the Sites. If you use the Sites after Bookemon has posted a change to these terms on the Sites, you are agreeing to be bound by all of the changes.