

General Conditions of Sale

These Conditions set out the basis on which Seller will enter into the Contract with the Buyer for the sale of Artwork via the Website. **FOR THE AVOIDANCE OF DOUBT, JB ART GALLERY STRICTLY ACTS AS THE SELLER'S AGENT FOR THE SALE OF THE ARTWORK UNDER THE CONTRACT. CONSEQUENTLY, THE CONTRACT FOR THE SALE OF THE ARTWORK IN THIS INSTANCE IS BETWEEN THE SELLER AND THE BUYER. JB ART GALLERY SHALL NOT BE A PARTY TO THE CONTRACT.**

The Seller acknowledges that, in entering into the Contract, the Buyer will be either a Consumer or a Business (each of which are defined in clause 1 of these Conditions, below). In some areas of these Conditions, the Buyer will have differing rights and obligations depending on whether it is entering into the Contract as a Consumer or a Business.

These Conditions will clearly identify which clauses apply to only Businesses and which clauses apply to only Consumers, by including the statement "if the Buyer is a Business" or "if the Buyer is a Consumer". Where no such indication is made, the relevant clause shall apply to both Businesses and Consumers.

These Conditions adopt the use of defined terms, which are referred to throughout these Conditions and shall have the meaning given to them in clause 1 these Conditions, immediately below. In the event that the Buyer has any queries regarding its legal status, or which of these Conditions apply to it, then it must raise the same with both the Seller and JB Art Gallery prior to entering into the Contract, in accordance with the clause 21 (service of notices).

1. DEFINITIONS AND INTERPRETATION

1.1 The following definitions apply in these Conditions:

Act: the Consumer Rights Act 2015.

Artwork: the artwork as particularised in the Promotional Material.

Business: means a person acting for purposes relating to that person's trade, business, craft or profession, whether acting personally or through another person acting in the trader's name or on the trader's behalf.

Business Day: a day other than a Saturday, Sunday or public holiday in England, when banks in London are open for business.

Conditions: these general conditions of sale.

Confidential Information: information in whatever form (including, without limitation, in written, oral, visual or electronic form or on any magnetic or optical disk or memory and wherever located) relating to the business, Buyers, products, affairs and finances of a party for the time being confidential to it and trade secrets including, without limitation, technical data and know-how relating to its business or any of its or their suppliers, Buyers, agents,

distributors, shareholders, management or business contacts and, whether or not such information (if in anything other than oral form) is marked confidential.

Consumer: shall have the meaning given to it in the Regulations.

Contract: the contract between the Seller and the Buyer for the sale and purchase of the Artwork in accordance with these Conditions.

Buyer: the Business or Consumer which or whom wishes the Seller is to provide the Artwork and which wishes to purchase the Artwork from the Seller.

Exhibition: the online exhibition of the Artwork via the Website.

Force Majeure Event: events, circumstances or causes beyond a party's reasonable control including but not limited to acts of God, flood, drought, earthquake or other natural disaster; epidemic or pandemic; terrorist attack, civil war, civil commotion or riots, war, threat of or preparation for war, armed conflict, imposition of sanctions, embargo, or breaking off of diplomatic relations; nuclear, chemical or biological contamination or sonic boom; any law or any action taken by a government or public authority, including without limitation imposing an export or import restriction, quota or prohibition, restrictions arising out any other Force Majeure Event; collapse of buildings, fire, explosion or accident, interruption or failure of utility service, and in the case of JB Art Gallery, a failure of its suppliers or subcontractors.

Intellectual Property Rights: patents, utility models, rights to inventions, copyright and neighbouring and related rights, moral rights, trade marks and service marks, business names and domain names, rights in get-up and trade dress, goodwill and the right to sue for passing off or unfair competition, rights in designs, rights in computer software, database rights, rights to use, and protect the confidentiality of, confidential information (including know-how and trade secrets), and all other intellectual property rights, in each case whether registered or unregistered and including all applications and rights to apply for and be granted, renewals or extensions of, and rights to claim priority from, such rights and all similar or equivalent rights or forms of protection which subsist or will subsist now or in the future in any part of the world.

Loss: any actions, awards, charges, claims, compensation, costs, damages, demands, expenses, fees, fines, interest, liabilities, losses, penalties, proceedings and settlements and Losses shall be construed accordingly.

Memorandum of Sale: the written confirmation that the Order has been accepted by JB Art Gallery.

Order: means an offer by the Buyer to enter into a Contract with the Seller in accordance with these Conditions.

Promotional Materials: the Exhibition, Website, catalogues, brochures or such other applicable sales or promotional literature, materials or publications.

Regulations: means The Consumer Contracts (Information, Cancellation and Additional Charges) Regulations 2013.

Seller: the artist, Consumer or Business which or whom has instructed JB Art Gallery to offer

the Artwork for Sale.

JB Art Gallery: JB Art Gallery Limited, a company incorporated and registered in England and Wales with company registration number 12968269 whose registered office is at 411 Oxford Street, Office 1.01, London, England, W1C 2PE

Website: www.jbartgallery.com

1.2 In these Conditions, the following rules of interpretation apply:

- (a) a **person** includes a natural person, corporate or unincorporated body (whether or not having separate legal personality);
- (b) a reference to a party includes its personal representatives, successors or permitted assigns;
- (c) a reference to a statute or statutory provision is a reference to such statute or statutory provision as amended or re-enacted. A reference to a statute or statutory provision includes any subordinate legislation made under that statute or statutory provision, as amended or re-enacted;
- (d) any phrase introduced by the terms **including, include, in particular** or any similar expression shall be construed as illustrative and shall not limit the sense of the words preceding those terms;
- (e) a reference to **writing** or **written** includes emails; and
- (f) unless the context otherwise requires, a reference to one gender shall include a reference to the other genders.

2. AGENT FOR THE SELLER

2.1 JB Art Gallery strictly acts as the Seller's agent for the sale of the Artwork under the Contract. Consequently, the Contract in this instance is between the Seller and the Buyer and each party has the rights and obligations set out in these Conditions (including but by no means limited to, where the Buyer is a Consumer, the consumer rights set out in the Regulations and the Act.

2.2 As the Seller's agent, JB Art Gallery has the authority, on behalf of the Seller, to:

- (a) **prepare the Promotional Material;**
- (b) **organise an online exhibition of the Artwork;**
- (c) **offer the Artwork for sale via the Website;**
- (d) **negotiate the sale of the Artwork;**
- (e) **accept offers made by the Buyer;**
- (f) **reject any Order;**
- (g) **sign a Sale Memorandum; and**
- (h) **provide assistance in respect of the delivery of any sold Artwork.**

3. FORMATION OF CONTRACT

- 3.1 These Conditions apply to the Contract to the exclusion of any other terms that the Buyer may seek to impose or incorporate, or which are implied by trade, custom, practice or course of dealing.
- 3.2 If the Buyer wishes to purchase the Artwork at the published price (which can be found on the Website, in accordance with an Exhibition or otherwise), then the Buyer shall first be required to raise an Order for the Artwork.
- 3.3 An Order can be raised in the following ways:
- (a) **via the Website, by selecting the applicable Artwork, delivery method and then proceeding to the checkout;**
 - (b) **via email, by contacting info@jbartgallery.com ; or + 44 (0) 7775207555**
 - (c) **via telephone, by contacting**
- 3.4 Should the Buyer wish to negotiate the price of the Artwork it shall contact JB Art Gallery via either of the methods described in clause 3.3(b) or 3.3(c) above. Where a negotiated price is agreed between the Buyer and the Seller, the Buyer shall be required to raise an Order for the Artwork pursuant to clause 3.3(b) or 3.3(c) above.
- 3.5 The Seller may reject any Order that the Buyer raises at its absolute discretion and the Order shall only be deemed to be accepted when **a Memorandum of Sale is issued on behalf of the Seller** at which point the Contract shall come into existence.

4. PROMOTIONAL MATERIAL

- 4.1 Any samples, drawings, descriptive matter or advertising produced by JB Art Gallery on behalf of the Seller and any descriptions or illustrations contained in the Promotional Materials are produced for the sole purpose of giving an approximate idea of the Artwork referred to in them. They shall not form part of the Contract nor have any contractual force and prior to raising the Order, it is the Buyer's responsibility to ensure that the Artwork are suitable for the Buyer's intended application or use.
- 4.2 The description of any Artwork in the Promotional Material, any condition report and any other statement made by JB Art Gallery on behalf of the Seller (whether orally or in writing) about any Artwork, including about its nature or condition, artist, period, materials or provenance are the opinion of JB Art Gallery and/or the Seller and should not be relied upon as a statement of fact. Neither JB Art Gallery or the Seller carries out in-depth research of the sort carried out by professional historians and scholars and such research should be carried out by the Buyer prior to raising its Order.
- 4.3 All dimensions and weights listed in the Promotional Material are approximate only.

5. SELLER'S WARRANTY

- 5.1 The Seller warrants that:
- (a) it is the owner of the Artwork or a joint owner of the Artwork acting with the

permission of the other co-owners or, if the Seller is not the owner or a joint owner of the Artwork, has the permission of the owner to sell the Artwork, or the right to do so in law;

- (b) the Artwork is free and clear of any and all liens, mortgages and security interests or other encumbrances held by any person;
- (c) it has the right to transfer ownership of the Artwork to the Buyer without any restrictions or claims by anyone else;
- (d) the Artwork is free of any restrictions relating to the re-sale of the Artwork by a Buyer; and
- (e) where the Artwork contains the likeness or other details of a third party individual and the sale and other use of the Artwork in any part of the world as contemplated by these Conditions amounts to the processing of Personal Data of that individual, the Seller warrants that any consent necessary to make that activity lawful has been obtained from the individual in question in compliance with all applicable laws for the protection of the privacy of individuals in any relevant part of the world.

5.2 The Seller gives no warranty in relation to the Artwork other than those set out above.

6. PRICE AND PAYMENT

6.1 The price of the Artwork shall be as set out on the Website or otherwise within the Promotional Materials, as the case may be.

6.2 The Buyer shall pay the sums due for each Order in full and in cleared funds within 7 days of the Contract coming into existence in accordance with clause 3.5.

6.3 Unless otherwise agreed in writing between the Seller and the Buyer, payment for the Artwork must be made in advance of the Artwork being shipped. Where a delivery date in respect of any Artwork has been agreed between the parties, the Seller shall have no liability towards the Buyer for any Losses suffered where there has been a failure to deliver on that delivery date and such failure arises as a result of the Buyer's failure to comply with its payment obligations under clause 6.2.

6.4 Payments made under the Contract shall be made either via the method defined on the Website or to the bank account particularised in the invoice. Time for payment is of the essence, which means that if payment is not received within the required time frame then, in addition to its other rights and remedies under the Contract, the Seller shall be entitled to terminate the Contract.

6.5 All amounts payable by the Buyer under the Contract are exclusive of amounts in respect of value added tax chargeable from time to time (**VAT**). Where any taxable supply for VAT purposes is made under the Contract by the Seller to the Buyer, the Buyer shall, on receipt of a valid VAT invoice from the Seller, pay to the Seller such additional amounts in respect of VAT as are chargeable on the sale of the Artwork at the same time as payment is due for the sale of the Artwork.

- 6.6 If the Buyer fails to make any payment due under the Contract by the due date for payment, then the Buyer shall pay interest on the overdue amount at the rate of:
- (a) 8% per annum above the Bank of England's base rate from time to time if the Buyer is a Business; or
 - (b) 2% per annum above the Bank of England's base rate from time to time if the Buyer is a Consumer, and

interest due under this clause 6.6 shall accrue on a daily basis from the due date until actual payment of the overdue amount, whether before or after judgment. The Buyer shall pay the interest together with the overdue amount.

- 6.7 All amounts due under the Contract shall be paid in full without any set-off, counterclaim, deduction or withholding (other than any deduction or withholding of tax as required by law).

7. ARTIST RESALE RIGHTS (ARR) / DROIT DE SUITE

- 7.1 Artwork marked on the Website with 'ARR' may be subject to an ARR / Droit de Suite levy (the **Levy**). Any applicable Levy shall be payable by the Buyer and, for the avoidance of doubt, shall be calculated in addition to the advertised or negotiated price of the Artwork.
- 7.2 The Seller shall be entitled to collect the Levy from the Buyer and, upon receipt of the Levy, it shall pay the full amount to the relevant collecting agency.
- 7.3 For the avoidance of doubt, the failure of the Buyer to pay the Levy shall be deemed to be a material breach of this Contract.

8. IMPORT AND EXPORT LICENCES

The Buyer's shall be responsible for and warrants that it shall:

- (a) verifying local legislation and regulations relating to the manufacture, sale, packaging and labelling of Artwork which are in force within the territory to which the Artwork is to be imported (where applicable) prior to the sale in order to be assured that import or export of the Artwork is possible in accordance with such legislation and regulations; and
- (b) obtain, at its own cost, any licenses required to either import or export the Artwork, and

the Seller shall provide the Buyer with reasonable assistance in order to ensure compliance with this clause 8.

9. AUTHENTICITY

- 9.1 Where Artwork is sold as authentic under the Promotional Material and the Buyer provides evidence in the form of a written report by a recognised expert or test results that the

said Artwork is not authentic, the Seller shall refund the purchase price.

- 9.2 The Buyer shall give immediate notice to the Seller upon becoming aware that or any event taking place to give a suspicion that any Artwork is not authentic. For the purposes of this clause 9, authenticity shall be defined as the state of an Artwork that is genuine and not a forgery or a copy.

10. DELIVERY / COLLECTION

- 10.1 The Buyer acknowledges that it shall be solely responsible for any and all costs that may arise in relation to the delivery or collection of the Artwork. Such costs may include but are not limited to:

- (a) shipping;
- (b) insurance; and
- (c) import and export licences.

- 10.2 Unless otherwise agreed, the Seller shall deliver the Artwork to the location as agreed between the parties in writing (for the avoidance of doubt, this includes where JB Art Gallery has agreed the delivery location on behalf of the Seller).

- 10.3 Delivery of the Artwork shall be completed on the completion of unloading of the Artwork at the delivery location.

- 10.4 The Buyer may only collect the Artwork in person from the Seller with the express written consent of both the Seller and JB Art Gallery.

- 10.5 Where the Buyer is a Business, any quotes dated for delivery are approximate only, and time for delivery is not of the essence. Whether the Buyer is a Business or a Consumer, the Seller shall not be liable for any delay in delivery of the Artwork that is caused by a Force Majeure Event or the Buyer's failure to provide the Seller with adequate delivery instructions or any other instructions that are relevant to the supply of the Artwork.

- 10.6 If the Buyer fails to accept delivery of the Artwork within three Business Days of the Seller notifying the Buyer that the Artwork is ready, then, except where such failure or delay is caused by a Force Majeure Event or the Seller's failure to comply with its obligations under the Contract in respect of the Artwork:

- (a) delivery of the Artwork shall be deemed to have been completed at 9.00 am on the third Business Day after the day on which the Seller notified the Buyer that the Artwork was ready; and
- (b) the Seller shall store the Artwork until delivery takes place, and charge the Buyer for all related costs and expenses (including insurance).

- 10.7 If ten Business Days after the day on which the Seller notified the Buyer that the Artwork is ready for delivery the Buyer has not accepted actual delivery of it, the Seller may resell or otherwise dispose of part or all of the Artwork and, after deducting reasonable storage

and selling costs, account to the Buyer for any excess over the price of the Artwork or charge the Buyer for any shortfall below the price of the Artwork.

11. TITLE AND RISK

- 11.1 Title to the Artwork shall not pass from the Seller to the Buyer until JB Art Gallery (on behalf of the Seller) has received payment in full (in cash or cleared funds) for the Artwork.
- 11.2 Risk in the Artwork shall pass following the successful delivery of the Artwork under clause 10.3. Where the Buyer is a Consumer, this means that the risk of damage to the Artwork shall pass to the Buyer once the Artwork has been successfully unloaded at the agreed delivery location.

12. ANTI-MONEY LAUNDERING

- 12.1 JB Art Gallery is registered with HMRC for Money Laundering Supervision and operates internal controls and monitoring systems to identify instances of money laundering.
- 12.2 Cash payments shall not be accepted for amounts over the sterling equivalent of €10,000, regardless of the payment being for one or multiple Artworks.
- 12.3 Should JB Art Gallery encounter a contravention of said controls or monitoring systems, or it is unable to bring the Buyers or Sellers into line with said regulations, JB Art Gallery reserves the right to cancel any Order and will notify the relevant authority of the suspected contravention if deemed intentional.
- 12.4 Payments made by someone other than the Buyer shall not be accepted.

13. INTELLECTUAL PROPERTY RIGHTS

- 13.1 Unless otherwise agreed by the parties or permitted within this Agreement, no Intellectual Property Rights in the Artwork shall pass from the Seller to the Buyer under the Contract.
- 13.2 The Seller:
- (a) warrants that:
 - (i) it possesses all relevant Intellectual Property Rights in the Artwork that are required to allow the sale; and
 - (ii) that the sale of the Artwork shall not infringe the Intellectual Property Rights of any third party; and
 - (b) shall indemnify the Buyer in full against any Losses suffered by the Buyer as a result of any claim that the Artwork infringes a third party's Intellectual Property Rights.
- 13.3 Liability under the indemnity in clause 13.2(b) is conditional on the Buyer discharging the following obligations. If any third party makes a claim, or notifies an intention to make a claim, against the Buyer which may reasonably be considered likely to give rise to a liability under clause 13.2(b) (**Claim**), the Buyer shall:
- (a) as soon as reasonably practicable, give written notice of the Claim to the Seller, specifying the nature of the Claim in reasonable detail;
 - (b) not make any admission of liability, agreement or compromise in relation to the Claim without the prior written consent of the Seller;

- (c) give the Seller and its professional advisers access at reasonable times (on reasonable prior notice) to its premises and its officers, directors, employees, agents, representatives or advisers, and to any relevant assets, accounts, documents and records within the power or control of the Buyer, so as to enable the Seller and its professional advisers to examine them and to take copies (at the Seller's expense) for the purpose of assessing the Claim; and
- (d) take such action as the Seller may reasonably request to avoid, dispute, compromise or defend the Claim.

14. DATA PROTECTION

14.1 All parties acknowledge that JB Art Gallery is a data controller and is committed to ensuring the security and protection of any personal data that it processes in connection with the sale of the Artwork and to provide a compliant and consistent approach to data protection.

14.2 All parties shall comply with the Data Protection Act 2018, the UK General Data Protection Regulation (GDPR) and the data protection principles.

14.3 JB Art Gallery will process personal data in accordance with its privacy notice which is available via

<https://www.jbartgallery.com/attachment/en/605a6826efc0de4070533772/DownloadableItem/605e421f1ae0f74eb9651f83>

14.4 The Buyer and Seller shall ensure that any personal data (and otherwise) that provided to JB Art Gallery will be accurate, up to date and complete.

15. LIABILITY – THIS CLAUSE ONLY APPLIES IF THE BUYER IS A CONSUMER

15.1 The Seller or, where applicable, JB Art Gallery shall only be responsible for loss or damage suffered by the Buyer that is a foreseeable result of any failure by the Seller or JB Art Gallery to comply with the Contract but, except as set out in clause 15.2, the Seller or JB Art Gallery shall not be responsible for any Loss or damage that is not foreseeable. Loss or damage is foreseeable if either it is obvious that it will happen or if, at the time the Contract was formed, both parties knew it might happen.

15.2 The Seller or JB Art Gallery does not exclude or limit in any way its liability to the Buyer where it would be unlawful to do so. This includes liability for death or personal injury caused by the Seller's or JB Art Gallery's negligence or the negligence of the Seller's or JB Art Gallery's employees, agents or subcontractors; for fraud or fraudulent misrepresentation; for breach of the Buyers legal rights in respect of the Artwork.

16. LIMITATION OF LIABILITY AND INDEMNITY – THIS CLAUSE ONLY APPLIES IF THE BUYER IS A BUSINESS

16.1 Nothing in the Contract shall limit or exclude the Seller's or JB Art Gallery's liability for:

- (a) death or personal injury caused by its negligence, or the negligence of its employees, agents or subcontractors;

- (b) fraud or fraudulent misrepresentation; or
- (c) any other matter for which it is not legally possible to limit or exclude its liability.

16.2 Subject to clause 16.1, neither the Seller or JB Art Gallery shall not be liable to the Buyer, whether in contract, tort (including negligence), for breach of statutory duty, or otherwise, arising under or in connection with the Contract for:

- (a) loss of profits;
- (b) loss of goodwill;
- (c) loss of business;
- (d) loss of business opportunity;
- (e) loss of anticipated saving;
- (f) loss or corruption of data or information; and
- (g) any indirect, special or consequential Loss.

16.3 Subject to clause 16.1, the Seller's and JB Art Gallery's total liability to the Buyer, whether in contract, tort (including negligence), breach of statutory duty, or otherwise for any Losses suffered or incurred by it arising under or in connection with this Contract shall be limited to the price paid by the Buyer to the Seller for the Artwork in cleared funds under this Contract.

16.4 The Buyer shall fully indemnify the Seller and JB Art Gallery, keep the Seller and JB Art Gallery indemnified and hold the Seller and JB Art Gallery harmless for and against any and all Loss suffered or incurred by the Seller or JB Art Gallery whether in contract, tort (including negligence), breach of statutory duty, or otherwise, arising under or in connection with this Contract.

17. TERMINATION OF THE CONTRACT BY THE SELLER

17.1 Without limiting its other rights or remedies, the Seller may terminate the Contract with immediate effect by giving written notice to the Buyer if:

- (a) the Buyer commits a material breach of any term of the Contract and (if such a breach is remediable) fails to remedy that breach within 5 Business Days of being notified in writing to do so;
- (b) the Buyer repeatedly breaches any of the terms of the Contract in such a manner as to reasonably justify the opinion that its conduct is inconsistent with it having the intention or ability to perform the Contract; or
- (c) becomes subject to any of the events listed in clause 17.2.

17.2 For the purposes of clause 17.1, the relevant events are:

- (a) the Buyer (being a Business) suspends, or threatens to suspend, payment of its debts or is unable to pay its debts as they fall due or admits inability to pay its debts or (being a company or limited liability partnership) is deemed unable to pay its debts

within the meaning of section 123 of the Insolvency Act 1986 (IA 1986) or (being an individual) is deemed either unable to pay its debts or as having no reasonable prospect of so doing, in either case, within the meaning of section 268 of the IA 1986 or (being a partnership) has any partner to whom any of the foregoing apply;

- (b) the Buyer (being a Business) takes any step or action in connection with its entering administration, provisional liquidation or any composition or arrangement with its creditors (other than in relation to a solvent restructuring), being wound up (whether voluntarily or by order of the court, unless for the purpose of a solvent restructuring), having a receiver appointed to any of its assets or ceasing to carry on business or, if the step or action is taken in another jurisdiction, in connection with any analogous procedure in the relevant jurisdiction;
- (c) the Buyer (being a Business) commences negotiations with all or any class of its creditors with a view to rescheduling any of its debts, or makes a proposal for or enters into any compromise or arrangement with any of its creditors other than (being a company) for the sole purpose of a scheme for a solvent amalgamation of that other party with one or more other companies or the solvent reconstruction of that other party;
- (d) the Buyer (being a Business) suspends, threatens to suspend, ceases or threatens to cease to carry on all or a substantial part of its business; or
- (e) the Buyer's financial position deteriorates to such an extent that in JB Art Gallery's opinion the Buyer's capability to adequately fulfil its obligations under the Contract has been placed in jeopardy;
- (f) the Buyer (being a Consumer) is the subject of a statutory demand, bankruptcy petition, application or order; and
- (g) the Buyer (being a Consumer or an individual) dies or, by reason of illness or incapacity (whether mental or physical), is incapable of managing their own affairs or becomes a patient under any mental health legislation.

17.3 Without limiting its other rights or remedies, JB Art Gallery may suspend provision of the Artwork under the Contract or any other contract between the Buyer and the Seller if the Buyer becomes subject to any of the events listed in clause 17.2 (a) to clause 17.2 (g), or Seller and / or JB Art Gallery reasonably believes that the Buyer is about to become subject to any of them, or if the Buyer fails to pay any amount due under this Contract on the due date for payment.

17.4 Without limiting its other rights or remedies, Seller and / or JB Art Gallery may terminate the Contract with immediate effect by giving written notice to the Buyer if the Buyer fails to pay any amount due under the Contract on the due date for payment.

18. TERMINATION AND THE RIGHT TO CHANGE YOUR MIND – THIS CLAUSE ONLY APPLIES IF THE BUYER IS A CONSUMER

18.1 Where the Buyer is a Consumer, it may terminate the Contract with the Seller. The Buyer's rights when it terminates the Contract shall depend on the Artwork that it has purchased, whether there is anything wrong with those Artwork, the conduct of the Seller and when

the Buyer decides to terminate the Contract.

18.2 If the Buyer is terminating the Contract for any reason set out in clause 17.2(a) to clause 18.2(c), then the Contract will be terminated immediately and the Seller will refund the Buyer in full for any Artwork which have not been provided. These reasons are:

- (a) the Seller has informed the Buyer about an error in the price or description of the Artwork which is the Seller's fault and the Buyer does not wish to proceed;
- (b) there is a risk that supply of the Artwork may be significantly delayed because of events outside of the Seller's control; or
- (c) the Buyer has a legal right to end the Contract because of something that the Seller has done wrong.

18.3 Where the Buyer has changed its mind about the Artwork, then the Buyer may be able to receive a refund where it has changed its mind within the cooling off period. However, this refund may be subject to reductions and the Buyer will be required to pay the costs of returning the Artwork to the Seller.

18.4 As the Contract is for the sale of Artwork, the Buyer has 14 days after the day that the Artwork has been collected in order to change its mind, unless the Artwork are split into several deliveries over different days. In this case the Buyer has until 14 days after the day of the last delivery to change its mind about the Artwork.

18.5 Where the Buyer terminates the Contract under this clause 17, the Contract will end immediately and subject to the remaining provisions of these Conditions, the Seller will refund any sums paid by the Buyer for any Artwork not provided.

19. HOW TO TERMINATE THE CONTRACT – THIS CLAUSE ONLY APPLIES IF THE BUYER IS A CONSUMER

19.1 In the event that the Buyer wishes to terminate the Contract via telephone, then it will also need to confirm such in writing in accordance with clause 21. Alternatively, the Buyer can complete and return the Model Cancellation Form contained within Schedule 1 of these Conditions.

19.2 Where the Buyer wishes to terminate the Contract after the Artwork have been dispatched, the Buyer is required to return the Artwork to the Seller. Where the Artwork are not suitable for posting, the Buyer shall allow the Seller (or its instructed carrier) to collect them, acting reasonably at all times. Where the Buyer is exercising the right to change its mind, it must return the Artwork within 14 days of doing so.

19.3 The Seller agrees to pay the costs of returning the Artwork where the instances in clause 18.2(a) to clause 18.2(c) apply. In all other instances, which shall include where the Buyer changes its mind, the Buyer shall be responsible for the costs of returning the Artwork.

19.4 If the Buyer is responsible for the costs of returning the Artwork and the Seller is arranging for collection to take place, JB Art Gallery will charge the Buyer for the associated collection costs. Payment for charges under this clause 19.4 shall be made in accordance with the provisions of clause 6.

19.5 Any refunds that are due to the Buyer under the Contract will be made using the same method of payment used by the Buyer when purchasing the Artwork and shall be made within 14 days from the day on which the Seller receives the Artwork back from the Buyer.

20. CONSEQUENCES OF TERMINATION

20.1 Subject, in the case of the Buyer being a Consumer, to any refunds (and reasonable deductions) being provided under clause 18 or 19, on termination of the Contract for any reason the Buyer shall immediately pay to the Seller all of the Seller's outstanding unpaid invoices and interest.

20.2 Termination of the Contract shall not affect any of the parties' rights and remedies that have accrued as at termination, including the right to claim damages in respect of any breach of this Contract that existed at or before the date of termination. If the Buyer is a Consumer, this means the termination of the Contract will not affect the Consumers legal rights should the Seller act in breach of its obligations under the Contract.

20.3 Any provision of the Contract that expressly or by implication is intended to come into or continue in force on or after termination shall remain in full force and effect.

21. NOTICES

21.1 Any notice or other communication given to a party under or in connection with the Contract shall be in writing and shall be:

- (a) delivered by hand or by pre-paid first-class post or other next working day delivery service at its registered office (if a company), its principal place of business (if a partnership, sole trader or otherwise), or if the Buyer is a Consumer, its residential address; or
- (b) sent by email to contact details specified in the Order or otherwise as notified previously by that party or contained in these Conditions.

21.2 Any notice shall be deemed to have been received:

- (a) if delivered by hand, on signature of a delivery receipt or at the time the notice is left at the proper address;
- (b) if sent by pre-paid first-class post or other next working day delivery service, at 9.00 am on the second Business Day after posting or at the time recorded by the delivery service; or
- (c) if sent by email, at 9.00 am on the next Business Day after transmission.

21.3 This clause does not apply to service of any proceedings or other documents in any legal action, or where applicable, any arbitration or other method of dispute resolution.

22. FORCE MAJEURE

22.1 Neither party shall be in breach of this Contract nor liable for delay in performing, or failure to perform, any of its obligations under this Contract if such delay or failure result from a Force Majeure Event. If the Buyer is a Consumer, please note the definition of Force Majeure Event at the beginning of these Conditions, which sets out the instances in which

this clause 22 may be relevant.

22.2 The Seller shall use all reasonable endeavours to mitigate the effect of a Force Majeure Event on the performance of its obligations.

22.3 If a Force Majeure Event prevents, hinders or delays the Seller's performance of its obligations for a continuous period of more than thirty days, the Buyer may terminate the Contract immediately by giving written notice to JB Art Gallery.

23. CONFIDENTIALITY

23.1 Each party undertakes (an undertaking is a promise by each party under the Contract, which if breached could give rise to a claim that a serious breach of the Contract has taken place) that it shall not at any time disclose to any person any confidential information concerning the business, affairs, Buyers, clients or suppliers of the other party.

23.2 Each party may disclose the other party's confidential information:

- (a) to its employees, officers, representatives or advisers who need to know such information for the purposes of exercising the party's rights or carrying out its obligations under or in connection with the Contract. Each party shall ensure that its employees, officers, representatives or advisers to whom it discloses the other party's confidential information comply with this clause 23; and
- (b) as may be required by law, a court of competent jurisdiction or any governmental or regulatory authority.

23.3 No party shall use any other party's confidential information for any purpose other than to exercise its rights and perform its obligations under or in connection with the Contract.

24. GENERAL

24.1 **Assignment and other dealings.**

- (a) The Seller may at any time assign, transfer, mortgage, charge, subcontract or deal in any other manner with (**Transfer**) all or any of its rights or obligations under the Contract. Where the Buyer is a Consumer, any assignment or otherwise under this clause shall not adversely affect the supply of the Artwork.
- (b) The Buyer may not Transfer any or all of its rights or obligations under the Contract without the prior written consent of the Seller.

24.2 **Entire agreement.**

- (a) The Contract constitutes the entire agreement between the parties and supersedes and extinguishes all previous agreements, promises, assurances, warranties, representations and understandings between them, whether written or oral, relating to its subject matter.
- (b) Each party agrees that it shall have no remedies in respect of any statement, representation, assurance or warranty (whether made innocently or negligently) that is not set out in the Contract. Each party agrees that it shall have no claim for innocent or negligent misrepresentation or negligent misstatement based on any statement in

the Contract.

- 24.3 **Variation.** No variation of this Contract shall be effective unless it is in writing and signed by the parties (or their authorised representatives).
- 24.4 **Waiver.** No failure or delay by a party to exercise any right or remedy provided under the Contract or by law shall constitute a waiver of that or any other right or remedy, nor shall it prevent or restrict the further exercise of that or any other right or remedy. No single or partial exercise of such right or remedy shall prevent or restrict the further exercise of that or any other right or remedy.
- 24.5 **Severance.** If any provision or part-provision of the Contract is or becomes invalid, illegal or unenforceable, it shall be deemed modified to the minimum extent necessary to make it valid, legal and enforceable. If such modification is not possible, the relevant provision or part-provision shall be deemed deleted. Any modification to or deletion of a provision or part-provision under this clause shall not affect the validity and enforceability of the rest of the Contract.
- 24.6 **Third party rights.** A person who is not a party to the Contract shall not have any rights to enforce its terms as though it were a party to it and the provisions of the Contracts (Rights of Third Parties) Act 1999 are hereby excluded to the fullest extent permitted by law.
- 24.7 **Privacy.** Details on how JB Art Gallery handles personal information can be found within its Privacy and Cookies Policy, which is available on the Website.
- 24.8 **Governing law.** The Contract, and any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with it or its subject matter or formation, shall be governed by and construed in accordance with the law of England and Wales.
- 24.9 **Jurisdiction.** Each party irrevocably agrees that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with this Contract or its subject matter or formation.

Schedule 1 – Model Cancellation Form

(Complete and return this form only if you wish to withdraw from the Contract)

To 411 Oxford Street, Office 1.01, London, England, W1C 2PE

I/We [*] hereby give notice that I/We [*] cancel my/our [*] contract of sale of the Artwork
[*],

Ordered on [*/received on [*/,

Name of consumer(s),

Address of consumer(s),

Signature of consumer(s) (only if this form is notified on paper),

Date