

Terms & Conditions as of December 2008

1. DEFINITIONS

In this Agreement:

Agreement: the terms of this agreement as set out below;

Artwork: any artwork supplied by the Buyer to be the subject of the Services;

Buyer: the party purchasing Goods and/or Services from the Seller in accordance with the terms of this Agreement;

Finished Artwork: such piece of the Buyer's Artwork as has been supplied by the Buyer which has been the subject of the completed Services;

Goods: the products to be supplied by the Seller to the Buyer in accordance with the terms of this Agreement;

Irrevocable Letter of Credit: a letter of credit issued by a London clearing bank at the request of the Buyer, made in favour of the Seller, agreeing to pay the Seller the Price upon the presentation by the Buyer of suitable pre agreed export documents;

Materials: any and all materials supplied to the Buyer as a consequence of and in relation to the provision of the Services;

Order: an order placed by the Buyer for the supply of Goods and/or provision of the Services;

Price: the price of the Goods and/or the Services as communicated by the Seller to the Buyer which amount shall be exclusive of VAT;

Quotation: where supplied, a quotation for supplying the Goods and/or providing the Services produced by the Seller to the Buyer;

Seller: the John Jones Art Centre Limited (registered number 3009501);
Services: the framing, artist surfaces & photography service and associated services provided by the Seller;

VAT: value added tax chargeable under the Value Added Tax Act 1994 and any similar replacement or additional tax.

2. QUOTATIONS

2.1 Where the Seller provides the Buyer with a Quotation for:

- a) the framing, artist surfaces or photography service, the description of the Services shall be as set out therein; or
- b) the supply of Goods, the description of the Goods required shall be as set out therein.

2.2 A Quotation shall remain valid for acceptance by the Buyer for thirty days from the date of the Quotation. Please note that a quotation is indicative only, shall not be binding and the Seller reserves the right to alter the Quotation upon inspection of the Artwork.

3. ORDER

3.1 Subject to clause 3.2 below the Goods and/or the Services supplied by the Seller in accordance with this Agreement shall comply with any Quotation, and shall be as confirmed in the Order.

3.2 In the event that the Buyer delays delivery of the Artwork to the Seller, the Seller shall not be liable for any non compliance with any delivery dates specified



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in the Quotation or such other delivery dates agreed between the parties, and the Seller shall advise the Buyer of a new delivery date as soon as possible.

3.3 The Seller reserves the right (without prejudice to any other remedy) to cancel or suspend provision of the Services and/or delivery of the Goods comprised in any Order in the event of:

- a) the Buyer failing to meet its obligations under this Agreement or the Seller being of the reasonable opinion that this will be the case; or
- b) an event of force majeure (as set out in clause 14 below) prevents the Seller from supplying the Goods or providing the Services.

4. PRICE

4.1 The Buyer agrees to pay the Price for the Goods and/or the Services in accordance with the terms of clause 6 below.

4.2 The Seller reserves the right to amend the Price if:

- a) the Buyer changes, alters or amends in any way the Goods they require from those set out in and accepted by the Order and detailed in any Quotation; or
- b) the Buyer alters the scope or nature of the Services from that set out in the Order (including but not limited to changes in quantities, sizes, Materials, finishes or time-scales); or
- c) the Buyer delays the Seller in the provision of the Services or delivery of the Goods; or
- d) there is a change in legislation preventing the Seller from meeting its contractual obligations; or
- e) there is an event of force majeure as set out in clause 14 below.

5. VAT AND DUTIES

In circumstances where the Buyer is located outside of the European Union, the Buyer shall be liable for any import taxes or local tariffs relating to the supply of the Goods or the provision of the Services. Any non-United Kingdom Buyers are required to provide proof of export for VAT exemption.

6. PAYMENT TERMS

6.1 Invoices are payable without deduction, set off or counter claim on or before the date set out in any Quotation notwithstanding that the property in the Goods and/or the Materials may not have passed to the Buyer.

6.2 Unless specifically stated otherwise in the Quotation, terms of payment for orders of £2,000 and under are 100% of the Price at the time of placing the Order. For orders above £2,000.01, 50% of the Price at the time of placing the Order is required and the remaining 50% of the Price when the Goods or the Finished Artwork is ready for dispatch or collection.

6.3 The Seller may, at its discretion, release the Finished Artwork at any time but its usual practice is to only release upon receipt of the balance of all monies due (in cleared funds).

6.4 Payment by American Express will incur an additional surcharge on the Price.



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6.5 Payment for Orders destined for delivery outside the United Kingdom will only be accepted by an Irrevocable Letter of Credit. All bank charges will be payable by the Buyer.

6.6 Time of payment shall be of the essence and without prejudice to any other rights the Seller may have against the Buyer.

6.7 The Seller reserves the right to charge interest on a daily basis at the rate 8% on all overdue payments.

7. DELIVERY AND PACKING

7.1 Unless specifically requested by the Buyer and stated otherwise in any Quotation, Goods are sold and all Finished Artwork is available for collection from the Seller's factory. Every effort will be made to meet stated availability times or such other delivery times agreed between the parties. However, no liability is accepted for late availability for any reason whatsoever and time for delivery shall not be of the essence under the terms of this Agreement.

7.2 Unless specifically requested in any Quotation and accepted in the Order, the Finished Artwork shall not be shipped. Where the Finished Artwork is to be shipped at the Buyer's request and cost, unless stated otherwise the Finished Artwork will not be shipped crated.

7.3 If the Buyer fails to collect the Goods or the Finished Artwork when notified of its availability then, without prejudice to any other right or remedy available to the Seller, the Seller may at its option, store the Goods or the Finished Artwork until collection and charge the Buyer for reasonable storage costs including, but not limited to, insurance of the Goods or the Finished Artwork in storage. In such event the Buyer shall fully indemnify and keep indemnified the Seller from and against all costs, claims, damages, losses, liabilities and expenses (including loss of profit) incurred or suffered by the Seller by reason of the failure by the Buyer to collect the Goods or Finished Artwork.

7.4 If the Goods or Finished Artwork are to be shipped, the Buyer must be available to take delivery. In the event that the Buyer fails to take delivery, the Goods or Finished Artwork will be returned to the Seller, who reserves the right to charge the Buyer for reasonable shipping return and storage costs including, but not limited to, insurance of the Goods or the Finished Artwork in storage. The Buyer may be charged an additional fee to rearrange delivery.

8. TITLE AND RISK

8.1 The risk in Goods or Finished Artwork shall pass to the Buyer at the time of delivery or at the time of shipping the Goods or Finished Artwork in accordance with a request made under clause 7.2.

8.2 Title to Goods or Finished Artwork delivered to or collected by the Buyer shall not pass to the Buyer until the Seller has received payment in full (in cash or cleared funds) for:

- (a) such Goods or Finished Artwork; and
- (b) all other sums which are or which will become due to the Seller from the Buyer for sales of Goods or Finished Artwork or on any account.

8.3 Until title to Goods or Finished Artwork has passed to the Buyer, the Buyer shall:

- (a) hold such Goods or Finished Artwork on a fiduciary basis as the Seller's bailee;



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- (b) store such Goods or Finished Artwork separately from all other goods held by the Buyer so that they remain readily identifiable as the Seller's property;
- (c) not remove, deface or obscure any identifying mark or packaging on or relating to such Goods or Finished Artwork; and
- (d) maintain such Goods or Finished Artwork in satisfactory condition and keep them insured on the Seller's behalf for their full price against all risks with an insurer that is reasonably acceptable to the Seller. The Buyer shall obtain an endorsement of the Seller's interest in the Goods or Finished Artwork on its insurance policy, subject to the insurer being willing to make the endorsement. On request the Buyer shall allow the Seller to inspect such Goods or Finished Artwork and the policy of insurance, but the Buyer may resell or use Goods or Finished Artwork in the ordinary course of its business.

9. EXCLUSIONS AND INSTALLATIONS

9.1 Where the Services required by the Buyer include any installation work then, unless specifically set out in the Quotation, the provision of the Services shall exclude:

- a) the provision of utility supplies (including but not limited to electricity and water);
- b) any building work whatsoever required at the Buyer's premises;
- c) the moving, repositioning, adjusting or alteration of any property or equipment belonging to or in the possession of the Buyer;
- d) interface with other equipment; e) crantage or transport; and
- f) any other work not detailed in the Quotation.

9.2 Any installation work provided by the Seller will be carried out with reasonable care and skill by trained representatives of the Seller.

9.3 The Buyer will be required to provide assistance and supplies reasonably requested by the Seller or its representatives to facilitate the installation.

9.4 The trained representatives of the Seller will carry out the installation work referred to in this clause 9 between the hours of 8am and 5pm (with a 45 minute lunch break to be taken at a suitable time) Monday through Friday, excluding public holidays. Any installation work which is required by the Buyer to be done outside these hours shall only be provided if specified in the Quotation.

10. WARRANTY AND LIMITATION OF LIABILITY

10.1 Except for personal injury or death due to the negligence of the Seller, the Seller shall not be liable to the Buyer or any third party for any loss of profit, consequential or any other economic loss or damage suffered by the Buyer due to any defect in the Goods, the Materials or as a result of the performance of the Services or arising in any way from this Agreement or otherwise.

10.2 Except for personal injury or death due to the negligence of the Seller the liability of the Seller under this Agreement for any reason whatsoever shall not exceed the Price.

10.3 The warranties of the Seller do not cover, and the Seller makes no warranty with respect to any defect, failure, deficiency or error which is:

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- a) due to the supply of any part of the Goods or the Materials other than by the Seller; or
- b) not reported to the Seller within 5 days of discovery; or
- c) beyond the control of the Seller resulting from the provision of the Services.

11. NATURAL MATERIALS

Where the Materials or Goods supplied by the Seller include or comprise natural products then the Seller accepts no responsibility whatsoever for any naturally occurring changes to such natural products including but not limited to warping, distortion or other shape changes, differences in colour or shade and other natural imperfections in those products.

12. DRAWINGS

Where an Order is placed by telephone, email or facsimile, the Seller accepts no responsibility whatsoever for the accuracy or otherwise of any drawings or dimensions provided by the Buyer for the provision of the Services and/or supply of the Goods. Any loss, costs or expenses suffered by the Seller as a result of any errors or omissions in such drawings or dimensions shall be payable by the Buyer.

13. INSURANCE

13.1 All Artwork left with the Seller is insured to a specific maximum limit per individual piece of Artwork in the Seller's custody. The cover is limited and restricted, and the Buyer may view the policy of insurance upon request.

13.2 The Buyer is required to advise the Seller of the value of each item of Artwork, and if the Buyer is in any way unsure as to whether the Artwork is covered by the Seller's insurance, the Buyer should contact the Seller for further details.

13.3 The Buyer shall be responsible for insuring any Artwork in transit to or from the Seller's place of business, other than Artwork that is to be collected by the Seller or Finished Artwork that is to be delivered by the Seller, under the terms of the Order.

14. FORCE MAJEURE

The Seller shall be under no liability if they are unable to carry out any provision of this Agreement for any reason beyond their control including (without limiting the foregoing) Act of God, legislation, war, fire, flood, drought, failure of utilities, lock-out, strike or other action taken by employees in contemplation or furtherance of a dispute or owing to any inability to procure materials required for the performance of this Agreement. During the continuance of such a contingency, the Buyer may, by written notice to the Seller served no sooner than 30 days after commencement of the contingency, elect to terminate this Agreement and the Seller shall pay for any work actually done and Goods or Materials supplied, but subject thereto shall otherwise accept delivery when available.



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15. GENERAL

15.1 If any term or provision of this Agreement is held invalid, illegal or unenforceable for any reason by any Court of competent jurisdiction such provision shall be severed from this Agreement and the remainder of the provisions hereof shall continue in full force and effect as if this Agreement had been agreed with the invalid illegal or unenforceable provision eliminated.

15.2 The Seller may without the consent of the Buyer sublicense its rights or obligations or any part of this Agreement.

15.3 The headings in this Agreement are for ease of reference only and shall not affect the interpretation of any clauses in this Agreement.

16. ENTIRE AGREEMENT

Each of the parties agrees that save in respect of statements made fraudulently it shall have no remedy in respect of any untrue statement upon which it relied in entering this contract and that its only remedies shall be for breach of contract, negligence or misrepresentation.

17. THIRD PARTIES

The parties to this Agreement do not intend that any term of the Agreement shall be enforceable by virtue of the Contracts (Rights of Third Parties) Act 1999 by any person that is not a party to it.

18. LAW

This Agreement is governed by English law and any dispute is to be referred to an independent arbitrator to be appointed by agreement between the parties. In the event that the parties fail to reach an agreement, then the appointment of an arbitrator shall be referred to the then President of the Chartered Institute of Arbitrators whose decision shall be final and binding.



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