

ArtMakers: 'Buyer' Terms and Conditions

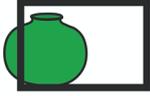
1. Introduction

- 1.1. "ArtMakers" is the trading name of BCre8ive Art Makers CIC ("we", "us", "our") a Community Interest Company (No.13269909) registered in England and Wales and whose registered office is at Yonder Hill, New Road, Instow, Devon EX39 4LN
- 1.2. The ArtMakers online platform ("the Platform") is operated by BCre8ive Art Makers CIC and consists of the website at <https://www.artmakers.uk> ("the Website"), which shall include all webpages and mirror sites controlled by us (and any future incarnation of the same). All online functionality and back-end services available from the Website, and all virtual other online workspaces accessed from the Website or as a result of your registration thereof.
- 1.3. The Platform provides an online marketplace and gallery for **Artists, henceforth referred to as 'the Seller' ("they", "them", "their")** and **Buyers ("you", "yours")**. All sales transactions are between Buyers and Sellers. Buyers are not buying anything directly from BCre8ive Art Makers CIC ("ArtMakers")
- 1.4. These terms and conditions ("the Terms") govern how any 'Artwork' owned by a person registered with BCre8ive ArtMakers CIC ("ArtMakers") under any 'Selling Membership' may be offered for sale and sold on the "ArtMakers" website and platform systems at www.artmakers.uk
- 1.5. These "Terms" shall be read in conjunction with the 'Website User Terms and Conditions', Seller Terms and Conditions, all Policies and any other information listed on the Website, which shall together form the agreement between you and us.
- 1.6. Please read these Terms carefully and make sure that you understand them, before registering or ordering any Artwork(s) from our Platform.
- 1.7. If you have any queries or need any help or assistance please contact us from the [Contact page](#) or at admin@artmakers.uk

2. DEFINITIONS

The Website User Terms and Conditions form part of these Buyer Terms and Conditions. For your ease we have included the definitions within these Buyer Terms and Conditions.

- "Artmakers' Services" means the services we supply by providing the Website as an Online Marketplace, allowing Artists to advertise Artwork on the Website, bringing Buyers and Artists together, using the website, and facilitating orders.
- "Artist" means any person and/or organisation who displays Artwork for sale on the Website. Generally referred to as the Seller
- "Artwork" means the pieces of Art/Artwork/Products which a Buyer agrees to buy from an "Artist" using the Website, including Commissions and Made to Order, as described in the individual listing on the Website.
- "Buyer" means the person and/or organisation who uses the Website and may buy Artwork.
- "Commissions" is Artwork supplied according to the Buyer's requirements so the Buyer may choose, for example, a subject matter or colour variations, for example, a painting from a photograph. However, the Buyer must bear in mind that Artwork is a personal choice and must be clear if the Buyer has any specific requirements. Unless otherwise agreed, commissions require a non-refundable 50% deposit to be paid in advance with the balance payable once the Buyer has approved the images.
- "Consumer" shall have the meaning as in s2(3) of the Consumer Rights Act 2015 and means "an individual acting for purposes that are wholly or mainly outside that individual's trade, business, craft or profession."
- "Intellectual Property Rights" means any patent, trademark, service mark, registered design, copyright, design right, any contact or database rights, know-how, confidential information or process, any application for any of the above and any other intellectual property rights recognised in any part of the world, whether or not presently existing or applied for, which are held by the owning party.
- "Made to Order" is Artwork which is painted/made for the Buyer based on an original piece of Artwork which the Buyer likes. They will be similar to the original but, because of their very nature, will have variations in the design and colour, and no two paintings will be exactly the same in appearance. Made to Order Artwork will not be an exact replica of the original.
- "Order acknowledgment" means the email confirming the Buyer's order and will contain information such as the Order number and



date of order, the title of the work, price and billing/shipping address(es)

- "Order confirmation" means the e-mail issued to confirm that the Artworks have been dispatched and will confirm the title of the artwork and the price.
- "Artwork" has the meaning attached to it in the Consumer Contracts (Information, Cancellation and Additional Payments) Regulations 2013 in reference to items displayed for sale on this platform.
- "Terms and Conditions" means these Terms and Conditions which also incorporate all policies and other Terms and Conditions displayed on our Website and will also include any special terms and conditions agreed in writing by us.
- "Upload onto the Website" means any submission or post, including any Artist's information regarding any Artwork for sale, in any format, including any post, content or anything whatsoever which a user uploads or provides to us for upload and subsequently appears and can be viewed on the Website. This includes taking part in any available feedback, review, discussion, forum etc.
- "User" or "you" means anyone using and/or visiting the Website for any purpose including, but not limited to, Buyers and Artists.
- "We", "Us", means the organisation who supplies and owns this Website, BCre8ive ArtMakers CIC, whose registered office is at Yonder Hill, New Road, Instow, Devon EX39 4LN a Community Interest Company registered in England who company registration number is 07795357.
- "Website" means the website and all content at <https://www.artmakers.uk>
- "Working Days" means any day Monday to Friday from 9am to 5pm, excluding all public and bank holidays in England and Wales.

3. BUYERS

- 3.1. We do not act as a Buyer's agent for any purpose.
- 3.2. You may only purchase Artworks from our Platform if you are at least 18 years old.
- 3.3. We intend to rely upon these Terms and any document expressly referred to in them in relation to the Contract between you and us. While we accept responsibility for statements and representations made by our duly authorised agents, please make sure you ask for any variations from these Terms to be confirmed in writing.

- 3.4. As a buyer, you have legal rights in relation to Artworks that are faulty or not as described. Advice about your legal rights is available from your local Citizens' Advice Bureau or Trading Standards office. Nothing in these Terms will affect these legal rights.
- 3.5. If you are acting on behalf of a business or any other organisational body, you confirm that you have authority to bind any business or organisation on whose behalf you use our Platform to purchase Artworks.
- 3.6. These Terms and any document expressly referred to in them constitute the entire agreement between you and us. You acknowledge that you have not relied on any statement, promise or representation made or given by or on behalf of us which is not set out in these Terms or any document expressly referred to in them.

4. THE ARTWORKS

- 4.1. The images of the Artworks on our Platform are for illustrative purposes only. Although we have made every effort to display the colours accurately, we cannot guarantee that your computer's display of the colours accurately reflect the colour of the Artworks. Your Artworks may vary slightly from those images and the depiction of Artworks with accessories, e.g. frames may be used for illustrative purposes only. You are advised to check that the Artwork you would like to purchase includes such accessories or not before placing the order.
- 4.2. The packaging of the Artworks may vary from that shown on images on our Platform.
- 4.3. All Artworks shown on our Platform are subject to availability. We will inform you by e-mail as soon as possible if the Artwork you have ordered is not available and we will not process that order.

5. OUR ROLE

- 5.1. Where you purchase Artworks offered by a Seller via the Platform, a Contract is concluded between you and that Seller via the Platform as specified in Section 7 below. We are not a party to that Contract, but each Seller authorises us as its commercial agent to promote the Seller's Artwork(s), to conclude the sale of its Artwork(s) under the terms of each Contract and to accept payment on that Seller's behalf, in accordance with these Terms via the Platform. In this limited capacity, we are neither the

buyer nor the seller (or reseller) of the Artwork(s) that the Seller offers for sale.

- 5.2. We are not your agent for any purpose. The Seller, and not us, is responsible for performing the obligations under the terms of any Contract between you and a Seller. Each Seller is the seller of record for all sales by that Seller to you via the Platform, but you pay us via the Platform for any Artwork(s) that you purchase. Your obligation to pay for any Artwork(s) is satisfied when you properly pay us for the Artwork(s) via the Platform. Because we conclude the sale on behalf of the Seller and your payment to us satisfies your obligation to pay for the Artwork(s) you purchase from the Seller, our name will appear on your payment card statement (which may also display the Seller's name).
- 5.3. The Seller will dispatch or arrange for the dispatch of the Artwork(s) you have purchased after receiving our notification of your order. You may only pay for Artwork(s) via the Platform and the Seller must not invoice you outside the Platform. Any refunds may only be initiated to you via the Platform. We may in our sole discretion investigate or decline to process any transaction involving any Artwork(s) purchased via the Platform. We do not charge you any fee for the Platform (unless a Service Fee is applicable as per Clause 6.5 below). We charge Sellers for acting on their behalf in the limited capacity described above.
- 5.4. Except as otherwise expressly provided in these Terms, we are not the agent, intermediary or other representative of the Seller. We are not a fiduciary or trustee of the Sellers.
- 5.5. We have no responsibility to you in relation to your order from a Seller or any Seller Artworks, except as may be identified elsewhere in these Terms.
- 5.6. Except as may be expressly stated in these Terms, we do not give any representation, warranties or undertakings in relation to the Artworks. Any representation, condition or warranty which might be implied or incorporated into these Terms by statute, common law or otherwise is excluded to the fullest extent permitted by law. In particular, we will not be responsible for ensuring that the Artworks are suitable for your purposes.

6. PRICES, DELIVERY CHARGES AND SERVICE FEE

- 6.1. The prices of the Artworks will be as quoted on our Platform from time to time. We take all reasonable care to ensure that the prices of Artworks are correct at the time when the relevant information was entered onto the system. However if we discover an error in the price of Artwork(s) you ordered, please see clause 6.6 below for details.
- 6.2. Prices for the Artworks may change from time to time, but changes will not affect any order already confirmed.
- 6.3. The price of a Artwork includes VAT (where applicable) at the applicable current rate chargeable in the UK for the time being. However, if the rate of VAT changes between the date of your order and the date of delivery, the VAT you pay will be adjusted, unless you have already paid for the Artworks in full before the change in VAT takes effect.
- 6.4. The price of a Artwork does not include Delivery Charges unless otherwise stated. Delivery charges within the UK are as quoted on our Platform from time to time. Delivery charges outside the UK may vary according to Artwork and destination Country and unless otherwise agreed shall be by agreement with the Seller.
- 6.5. A Service Fee may be charged to you for any order placed by you on the Platform. Where a Service Fee is applicable, the amount will be displayed to you before you place your order. By placing your order, you agree to pay to us the Service Fee charged for that order. The Service Fee is not refundable unless the order to which it relates is cancelled before the Artwork(s) is/are delivered.
- 6.6. It is possible that, despite our reasonable efforts, some of the Artworks on our Platform may be incorrectly priced. If we discover an error in the price of the Artworks you have ordered we will inform you of this error and we will give you the option of continuing to purchase the Artwork at the correct price or cancelling your order. We will not process your order with the Seller until we have your instructions. If we are unable to contact you using the contact details you provided during the order process, we will treat the order as cancelled and notify you in writing. Please note that if the pricing error is obvious and unmistakable and could have reasonably been recognised by you as a mispricing, the Seller does not have to provide the Artworks to you at the incorrect (lower) price.

- 6.7. All Artworks shown on our Platform are subject to availability. We will inform you by e-mail as soon as possible if the Seller for any reason is unable to fulfil your order.
- 6.8. Other than International Sales and Commissions and Made to Order, the price of the Artwork, which includes any applicable VAT or UK taxes, is as displayed in GBP on the Website at the time of purchase.
- 6.9. If yours in an International Sale (i.e. you are buying from a Seller based in the UK, and the UK is either not your Country of residence and/or where you want your Artwork to be shipped), you may be responsible for additional charges. Dependant on the International Sale, this could include customs duties and rates of VAT which are different to those in England and Wales. We advise that you clarify this before placing your order by contacting the Artist directly using the "contact the artist" form available on the artists profile page on the Website

7. THE CONTRACT BETWEEN YOU AND THE SELLER

- 7.1. The order process allows you to check and amend any errors before submitting your order to the Seller. Please take the time to read and check your order at each page of the order process.
- 7.2. After you place an order, you will receive an e-mail from us acknowledging that we have received your order on behalf of the Seller (Order Acknowledgement). However, please note that this does not mean that your order has been accepted by the Seller or by us. The Seller's acceptance of your order will be confirmed by the Order Confirmation email stating that the artwork ordered has been dispatched as per clause 7.3 below.
- 7.3. We will on behalf of the Seller confirm the Seller's acceptance to you by sending you an e-mail that confirms that the Artworks have been dispatched (Order Confirmation). The Contract between the Seller and you will only be formed when we send you the Order Confirmation.
- 7.4. If the Seller is unable to supply you with a Artwork, for example because that Artwork is not in stock or no longer available or because of an error in the price on our Platform as referred to in clause 6.1 or 6.6 above, you will be informed of this by e-mail and given the opportunity to choose an alternative artwork or to cancel your order and receive a full refund.

- 7.5. **Commissions:** You may discuss the scope, requirements, timeline and Price for an order a custom-made or bespoke Artwork(s) by using the 'Send Enquiry' messaging tool to be found on each Artist (Seller)'s Profile page.
- 7.6. Once you have agreed the specification with the Seller, the Seller will enter details on the site including a sum for an agreed deposit to be paid to the Seller (less our Commission). An invoice will be prepared on the site for you to authorise and pay.
- 7.7. Once the Seller completes the work and dispatches the Artwork(s), an invoice will be issued for the balance of the Price and an Order Confirmation will be sent to you. We will then debit your payment card for the balance of the Price.

8. COMMISSIONS: BUYER OBLIGATIONS

- 8.1. By authorising a commission the Buyer (**you, your**) agrees to the following terms and conditions:
- 8.2. **Buyer's obligation:** You will provide all necessary information (including images where applicable) in order for the Seller (**Artist**) to agree a timeline, a scope for the work, development stages for approval and a fixed price for the commissioned artwork.
- 8.3. Once the commission has been authorised, you agree to stay in regular contact with both the Artist and the ArtMakers team until the transaction is completed. You agree to accept the artwork as it is shipped (e.g. stretched/framed/rolled in a tube), in accordance with what has been agreed with the artist.
- 8.4. You will pay an agreed amount, as a non-refundable initial deposit, at the commencement of the transaction at which point you commit to purchasing the final Artwork provided all interim progress updates meet your approval. You are not obliged to proceed with the commission until you have paid the deposit.
- 8.5. The price agreed with the Artist will not change once the deposit has been paid unless otherwise agreed between you, the Artist and ArtMakers

- 8.6. You will check and approve and/or provide feedback on all progress updates from the Artist. Continuing the exchange of messages with the Artist may constitute approval of the progress under these terms, unless expressly stated in a timely manner in a communication to both the Artist and to ArtMakers.
- 8.7. You will respect the artist's creative process, style and technique as part of the artistic process involved in the creation of the commission. You will accept the artist's freedom of expression in accordance with their practice.
- 8.8. By paying the deposit you confirm that you base your decision to proceed with the commission on the Artist's body of work presented to you on the ArtMakers platform at the time of requesting the commission.
- 8.9. You will pay the final balance once the artwork has been completed. The non-refundable deposit shall be forfeit should you choose not to proceed with the order.

9. COMMISSIONS: ARTMAKERS' OBLIGATIONS

- 9.1. ArtMakers ("we") act as the Sellers agent for the commissioned order.
- 9.2. We will work together with the Seller and the Buyer to ensure that the financial aspect of the commission is carried out in a smooth and timely manner. An email confirmation will be sent to both Buyer and Seller confirming the receipt of the deposit, the final payment and any interim payments at each stage that it is required.
- 9.3. Before paying the final payment, the Buyer shall be given the opportunity to approve the completed work. The Buyer will then be asked to pay the final balance due. The commissioned work will not be despatched by the Artist until the final payment has been received.
- 9.4. A Commission will be concluded when the artwork has been despatched and receipt confirmed by the Buyer.

10. DELIVERY WITHIN THE UK

- 10.1. Other than for Commissions or other bespoke work, unless the applicable listing or Order Confirmation says otherwise, Sellers aim to dispatch Artwork to you within 14 days of the date of accepting your order. If there is going to be a delay the Seller will let you know by email so you can cancel your order or choose another piece of Artwork.

- 10.2. Your order will be fulfilled by the Seller as soon as is reasonable, unless there is an Event Outside Control. If the Seller is unable to fulfil delivery because of an Event Outside Control, we will contact you.
- 10.3. Delivery is arranged by the Seller to the address, provided by the Buyer on the Order Confirmation. The Seller will provide the Buyer with a tracking number once the Artwork(s) have been shipped.
- 10.4. If you have any particular shipping requirements, please contact the Seller directly using the "Send Enquiry" form available on the Artist's Profile page on the Website
- 10.5. Delivery will be completed when the Artworks are delivered to the address you gave when making the order.
- 10.6. The Artworks will be your responsibility from the completion of delivery.
- 10.7. You own the Artworks once you have made the payment in full, including all applicable Delivery Charges.

11. INTERNATIONAL PAYMENT AND DELIVERY

- 11.1. All prices are displayed in British pounds (GBP) and so you will be paying using GBP.
- 11.2. Where the Website displays a currency converter then this is only a guide/estimate because if your own payment method is not GBP (for example, in Euro or US\$,) then your payment method provider may make a charge for paying in GBP and they will also calculate the rate of currency exchange.
- 11.3. Currency exchange rates and charges are your responsibility so you may wish to check this with your payment provider before placing your order.
- 11.4. International shipping destinations are set by the Seller. We do our best to encourage Sellers to ship worldwide, but in some cases, Sellers will only ship to a limited set of countries.
- 11.5. If you wish to have a Artwork delivered to a country that a Seller currently does not ship to, please contact the Seller directly using the "Send

Enquiry" form available on the Artist's Profile page on the Website or ArtMakers at admin@ArtMakers.com.

- 11.6. If you order Artworks from our Platform for delivery to an International Delivery Destination, your order may be subject to additional import duties and taxes, applied when the delivery reaches that destination. Please note that neither we nor the Seller have no control over these charges and cannot predict their amount.
- 11.7. You will be responsible for payment of any such import duties and taxes. Please contact your local customs office for further information before placing your order.
- 11.8. You must comply with all applicable laws and regulations of the country for which the Artworks are destined. We or the Seller will not be liable or responsible if you break any such law.

12. CANCELLATION AND RETURN RIGHTS

- 12.1. With the exception of any commissions or other custom-made Artworks, individual Buyers "**Consumers**" (see Definition at Section 2 above) have a legal right to cancel a Contract with the Seller under The Consumer Contracts (Information, Cancellation and Additional Payments) Regulations 2013 during the period set out below in clause 12.3 below. This means that during the relevant period if you change your mind or for any other reason you decide you do not wish to keep a "Artwork", you can notify us of your decision to cancel the Contract with the Seller and receive a refund.
- 12.2. The above cancellation right does not apply in the case of any commission, made-to-measure or other custom-made Artworks
- 12.3. You may cancel a Contract from the date you receive the Order Confirmation, which is when the Contract between you and the Seller is formed. You have a period of 14 (fourteen) days in which you may cancel, starting from the day you receive the Artworks.
- 12.4. To cancel a Contract, you must contact us in writing by sending an e-mail to admin@artmakers.uk. You may wish to keep a copy of your cancellation notification for your own records. A member of the ArtMakers team will then contact you regarding how to return the Artworks.

- 12.5. Unless your item is faulty or we have agreed otherwise with you prior to you returning the Artwork, then you will be responsible for the costs in returning the item(s) to the Seller.
- 12.6. You have a legal obligation to keep the Artworks in your possession and to take care of the Artworks while they are in your possession. Please note that the law enables Sellers to deduct an amount from any refund if you have diminished the value of the Artwork by handling it beyond what is necessary to establish its nature, characteristics and function – defined as “unreasonable use”.
- 12.7. Artworks must be returned unused and in the same condition as they were delivered, with the original packaging, within 14 days of the date you advise us of your cancellation using the postal address as provided on the dispatch notice unless the Seller has specifically provided you with an alternative for the return. We always advise that you return a Artwork using a service which provides you with proof of sending.
- 12.8. Once the returned Artwork has been received by the Seller, if you are entitled to a refund, we will refund you on the credit card or debit card used by you to pay. You will receive a full refund of the price you paid for the Artworks and any applicable Delivery Charges you paid unless “unreasonable use” can be shown.
- 12.9. Consumers will always have legal rights in relation to Artworks that are faulty or not as described. These legal rights are not affected by the detail of the Returns Policy.

13. HOW TO PAY

- 13.1. We are authorised by the Seller to accept your payment of the Price payable for your orders in accordance with our role as commercial agent for the Seller as described in Section 5 above.
- 13.2. You can only pay for Artworks using the payment method(s) displayed as available to pay for the relevant Artworks when you checkout.

14. THE SELLER'S WARRANTY

- 14.1. The Seller provides a warranty that on delivery the Artworks shall be free from material defects. However, this warranty does not apply in the circumstances described in Clause 14.2 below

14.2. The warranty in clause 14.1 above does not apply to any defect in the Artworks arising from: a) fair wear and tear; b) wilful damage, abnormal storage or working conditions, accident, negligence by you or by any third party; c) if you fail to use the Artworks in accordance with its intention; d) any alteration or repair by you or by a third party who is not one of our authorised repairers; or e) any specification provided by you.

14.3. If you are a 'Consumer', this warranty is in addition to your legal rights in relation to Artworks that are faulty or not as described.

Where there is a problem with your order, such as the wrong Artwork arrives or any Artwork is faulty or missing, then we ask that you contact the Seller directly using the "Send Enquiry" form available on the Artist's Profile page on the Website or email us at admin@artmakers.uk within 14 days after the day you received the Artwork.

14.4. Depending on the problem with your order the Seller will agree the next action with you which may include:

- whether you wish to receive a replacement Artwork
- arrangements claim a refund.

14.5. In the event that you wish to return the Artwork and claim a refund

- You should send photos of the damage Artwork and packaging, Retain the Artwork and packaging in case an inspection is required by the Seller or their insurer.

14.6. All returns shall be carried out in accordance with the terms of Section 12 above.

15. OUR LIABILITY

15.1. If we fail to comply with these Terms, we are responsible for loss or damage you suffer that is a foreseeable result of our breach of these Terms or our negligence, but we are not responsible for any loss or damage that is not foreseeable. Loss or damage is foreseeable if they were an obvious consequence of our breach or if they were contemplated by you and us at the time we entered into the Contract.

15.2. We only supply the Artworks for domestic and private use. You agree not to use the Artwork for any commercial, business or re-sale purposes, and we have no liability to you for any loss of profit, loss of business, business interruption, or loss of business opportunity.

- 15.3. We do not in any way exclude or limit our liability for: a) death or personal injury caused by our negligence; b) fraud or fraudulent misrepresentation; c) defective Artworks under the Consumer Protection Act 1987);
- 15.4. We will under no circumstances whatever be liable to you, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, arising under or in connection with the Contract for: a) any loss of profits, sales, business, or revenue; b) loss or corruption of data, information or software; c) loss of business opportunity; d) loss of anticipated savings; e) loss of goodwill; or f) any indirect or consequential loss.
- 15.5. Except as expressly stated in these Terms, we do not give any representation, warranties or undertakings in relation to the Artworks. Any representation, condition or warranty which might be implied or incorporated into these Terms by statute, common law or otherwise is excluded to the fullest extent permitted by law. In particular, we will not be responsible for ensuring that the Artworks are suitable for your purposes.
- 15.6. Other than those implied by law where a Buyer is dealing as a Consumer, in the event of our breaching any of these Terms and Conditions, your remedies are limited to damages which in no circumstance whatsoever will exceed the price of the Artwork.
- 15.7. You will indemnify us against all claims, costs and expenses which we may incur, and which arise, directly or indirectly, from your breach of any of its obligations under these Terms and Conditions.

16. THIRD PARTY RIGHTS

- 16.1. Nothing in these Terms is intended to confer any benefit or entitlement on any person other than you and any Seller with whom you have a Contract, and no such other person shall have any rights to enforce any of these Terms, whether under the Contracts (Rights of Third Parties Act) 1999 or otherwise.