



## ArtMakers: 'Buyer' Terms and Conditions

### 1. INTRODUCTION

- 1.1. ArtMakers act as agents for artists (**Sellers**) to promote their Artwork, to conclude the sale of Artwork and to facilitate payments for Artwork.
- 1.2. Where you (**Buyer** or **You**) purchase Artwork offered by a Seller via this Platform, a Contract is concluded between You and the Seller .
- 1.3. ArtMakers do not act as the Buyer's agent in any capacity.
- 1.4. These terms and conditions (**Terms**) govern how any Artwork by a Seller may be offered for sale and sold on the Platform and the Website. All sales transactions are between Buyers and Sellers.
- 1.5. The Terms shall be read in conjunction with our 'Privacy Policy', 'Cookies Policy' and any other information listed on the Website, which shall together form the agreement between you and ArtMakers.
- 1.6. Please read these Terms carefully and make sure that you understand them before registering or ordering any artwork from the Platform. Any queries should be directed to ArtMakers via the Website contact page or at [admin@artmakers.uk](mailto:admin@artmakers.uk)

### 2. DEFINITIONS

- 2.1. "**ArtMakers**" means BCre8ive ArtMakers CIC, the organisation who supplies and owns this Website. A Community Interest Company registered in England whose company registration number is 07795357 whose registered office is at Yonder Hill, New Road, Instow, Devon EX39 4LN
- 2.2. "**Artmakers' Services**" means the services we supply by providing the Website as an Online Marketplace, allowing Sellers to advertise Artwork on the Website, bringing Buyers and Sellers together, using the Website, and facilitating orders for a commission fee.
- 2.3. "**Artwork**" means the pieces of Art/Artwork/Products made available by the Seller which a Buyer may agree to buy using the Website, including Commissions and Made to Order work as described in the individual listing on the Website.
- 2.4. "**Buyer**" or "**You**" means you being a person who uses the Website and may buy Artwork.
- 2.5. A "**Commission**" is Artwork supplied according to the Buyer's requirements so the Buyer may choose, for example, a subject matter or colour variations, or a painting from a photograph. However, the Buyer must bear in mind that Artwork is a personal choice and You must be clear if You have 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.



- 2.6. **“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.”
- 2.7. **“Contract”** means the binding terms agreed upon the purchase of goods between the Buyer and Seller in the transaction for the sale of Artwork.
- 2.8. **“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.
- 2.9. **“Made to Order”** is Artwork which is produced for the Buyer and provided by the Seller 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.
- 2.10. **“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) and other relevant information.
- 2.11. **“Order confirmation”** means the e-mail issued to confirm that the Artwork has been dispatched and will confirm the title of the Artwork and the price.
- 2.12. **“Platform”** means the online marketplace by ArtMakers provided for the use of Sellers and Buyers for the sale and purchase of Artwork and which presently 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 incarnations 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.
- 2.13. **“Terms”** means these Terms and Conditions
- 2.14. **“Terms and Conditions”** refers to other Terms and Conditions displayed on our Website and will also include any other policies and special terms and conditions agreed in writing by ArtMakers.
- 2.15. **“Upload onto the Website”** means any submission or post, including any Sellers 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.
- 2.16. **“User”** is anyone using and/or visiting the Website for any purpose including, but not limited to, Buyers and Sellers.
- 2.17. **“the Website”** means the website and all content at <https://www.artmakers.uk>



2.18. **“Working Day”** means any day Monday to Friday from 9am to 5pm, excluding all public and bank holidays in England and Wales.

### 3. THE ARTWORK

3.1. The images of Artwork on the Platform are for illustrative purposes only. Although ArtMakers have made every effort to display the colours accurately, it cannot be guaranteed that all computers display of the colours accurately reflect the colour of the Artwork. The Buyers purchased Artwork may vary slightly from those images and the depiction of Artwork with accessories, e.g. frames may be used for illustrative purposes only. Buyers are advised to check that the Artwork intended to purchase includes such accessories or not before placing the order.

3.2. The packaging of the Artwork may vary from that shown on images on the Platform.

3.3. All the Artwork shown on the Platform is subject to availability. ArtMakers will inform Buyers by e-mail as soon as possible if the Artwork ordered is not available. In these instances, the order will not be processed.

### 4. PRICES, VAT, ADDITIONAL CHARGES AND SERVICE FEE

4.1. ArtMakers 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. It is possible that, despite reasonable efforts, some of the Artwork on the Platform may be incorrectly priced. If an error is discovered in the price of the Artwork purchased, ArtMakers will inform the Buyer of this error and will give the option of continuing to purchase the Artwork at the correct price or cancelling the order. ArtMakers will not process the order with the Seller until the Buyer has given instructions. If ArtMakers are unable to contact the Buyer using the contact details provided during the order process, ArtMakers will treat the order as cancelled and notify the Buyer in writing.

4.2. 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.

4.3. Currency exchange rates and charges are the Buyer's responsibility so you may wish to check this with your payment provider before placing your order. The currency converter provided on the Website is only to be used as a price guide.

4.4. The price of Artwork includes VAT (where applicable) at the applicable current rate chargeable in the UK at the time of purchase. However, if the rate of VAT changes between the date of payment of the deposit and the date full payment is made, the VAT price will be adjusted.

4.5. If Artwork is purchased from the Platform for delivery to an International Delivery Destination, the order may be subject to additional import duties and taxes, applied when the delivery reaches that destination which are payable by the Buyer. Please note that neither ArtMakers nor the Seller have control over these charges and cannot predict their amount. Buyers will be solely responsible for payment of any such import duties and taxes.



Buyers are encouraged to contact their local customs office for further information before placing their order.

4.6. ArtMakers do not charge any fee for the Platform.

## **5. BUYERS ROLE**

5.1. Buyers must be aged 18 years old or over for the purchase of Artwork via the Platform.

5.2. ArtMakers intend to rely upon these Terms and any document expressly referred to in them in relation to the Contract between themselves and Buyers. Any variations from these Terms will only be valid if confirmed in writing.

5.3. Buyers have legal rights in relation to Artwork that is faulty or not as described. Advice about Buyers' legal rights are available from your local Citizens' Advice Bureau or Trading Standards office.

5.4. If the Buyer is acting on behalf of a business or any other organisational body, the Buyer warrants and confirms that they have authority to bind any business or organisation on whose behalf they use ArtMakers Platform to purchase Artwork.

## **6. CONTRACT BETWEEN BUYER AND SELLER**

6.1. Once the Buyer has completed the purchase of Artwork from a Seller via the Platform, a Contract will be formed. ArtMakers have no responsibility to the Buyer in relation to the Contract between Buyer and Seller for Artwork, except as may be identified in these Terms.

6.2. The Buyers obligation to pay for any Artwork is satisfied when full payment is received via the Platform. Because ArtMakers conclude the sale on behalf of the Seller, ArtMaker's name will appear on the payment card statement which may also display the Seller's name.

6.3. Payment can only be made for Artwork using the payment method(s) displayed on the Platform on checkout.

6.4. After an order is placed, the Buyer will receive an e-mail from ArtMakers acknowledging receipt on behalf of the Seller. Please note that this does not mean that the order has been accepted by the Seller or by ArtMakers. The Seller's acceptance of the order will be confirmed by the Order Confirmation email.

## **7. COMMISSIONS**

7.1. Buyers may discuss the scope, requirements, timeline and price for any order for custom-made or bespoke Artwork by using the 'Send Enquiry' messaging tool to be found on each Seller's Profile page.

7.2. Once the Buyer agrees the specification with the Seller, the Seller will enter details on the Platform including a sum for an agreed deposit to be paid to the Seller. An invoice will be prepared on the Platform for the Buyer to authorise and pay.



7.3. 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.

7.4. By authorising a Commission, the Buyer agrees to the following terms and conditions:

- 7.4.1. The Buyer will provide all necessary information (including images where applicable) in order for the Seller to agree a timeline, a scope for the work, development stages for approval and a fixed price for the Commission.
- 7.4.2. The Buyer will respect the Seller's creative process, style and technique as part of the artistic process involved in the creation of the Commission. The Buyer will accept the Seller's freedom of expression as an artist in accordance with their practice.
- 7.4.3. The Buyer will pay an agreed amount, as a non-refundable initial deposit, at the commencement of the transaction at which point the Buyer commits to purchasing the final Artwork provided all interim progress updates meet their approval. Neither the Buyer or the Seller are obliged to proceed with the Commission until the deposit has been paid by the Buyer.
- 7.4.4. By paying the deposit, the Buyer confirms that they agree to proceed with the Commission
- 7.4.5. Once the Commission has been authorised, the Buyer agrees to stay in regular contact with both the Seller and ArtMakers until the transaction is completed.
- 7.4.6. The Buyer will check and approve and/or provide feedback on all progress updates from the Seller. Continuing the exchange of messages with the Seller may constitute approval of the progress under these terms, unless expressly stated in a timely manner in a communication to both the Seller and to ArtMakers.
- 7.4.7. The Buyer will pay the final balance once the artwork has been completed. The non-refundable deposit shall be forfeit should the Buyer choose not to proceed with the Order.
- 7.4.8. The Buyer agrees 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 Seller.
- 7.4.9. The price agreed with the Seller will not change once the deposit has been paid unless otherwise agreed between the Buyer, the Seller and ArtMakers.

## **8. UK AND INTERNATIONAL DELIVERY**

8.1. The price of Artwork does not include delivery charges unless otherwise stated. Delivery charges within the UK are as quoted on the Platform. Delivery charges outside the UK may vary according to Artwork and destination country and unless otherwise agreed shall be by agreement between the Buyer and the Seller.



- 8.2. International shipping destinations are set by the Seller. ArtMakers encourage Sellers to ship worldwide, but in some cases, Sellers will only ship to a limited set of countries. If Buyers wish to have 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 Seller's Profile page on the Website or ArtMakers at [admin@artmakers.uk](mailto:admin@artmakers.uk)
- 8.3. Other than for Commissions or other Made to Order work, unless the applicable listing or Order Confirmation says otherwise, Sellers aim to dispatch Artwork within 14 days of the date of accepting the order. If a delay is anticipated, the Seller will notify the Buyer by email giving the option to cancel or amend the order.
- 8.4. Delivery is arranged by the Seller to the address provided by the Buyer on the Order Confirmation.
- 8.5. Delivery will be completed when the Artwork is delivered to the address given by the Buyer when making the order.
- 8.6. The Seller can be notified of additional shipping requirements directly using the "Send Enquiry" form available on the Seller's Profile page on the Website.

## 9. CANCELATIONS, RETURNS AND REFUNDS

- 9.1. With the exception of any Commissions or other Made to Order Artwork, the Buyer has a legal right to cancel a Contract with the Seller under The Consumer Contracts (Information, Cancellation and Additional Payments) Regulations 2013 within 14 days of the delivery of the Artwork. The Buyer must then return the Artwork within the following 14 days to qualify for receipt of a refund for the cost of the Artwork.
- 9.2. To cancel a Contract, Buyers must contact ArtMakers in writing by sending an e-mail to [admin@artmakers.uk](mailto:admin@artmakers.uk). Buyers are advised to keep a copy of your cancellation notification for their own records. A member of the ArtMakers team will then make contact regarding how to return the Artworks.
- 9.3. Artwork must be returned unused and in the same condition as it was delivered, with the original packaging. Buyers have a legal obligation to keep and take care of the Artwork in their possession. Please note that the law enables Sellers to deduct an amount from any refund if the value of the Artwork has diminished by the Buyer handling it beyond what is necessary to establish its nature, characteristics and function – defined as "unreasonable use".
- 9.4. ArtMakers always advise that on returning Artwork, Buyers use a service which provides proof of sending.
- 9.5. Refunds granted by Artmakers will typically be made within 14 days of receipt.
- 9.6. Any delivery and service fee paid is not refundable unless the order to which it relates is cancelled before the Artwork is delivered or is faulty or damaged when delivered.

## 10. FAULTY OR DAMAGED ARTWORK (SELLERS WARRANTY)



- 10.1. Buyers also have legal rights in relation to Artworks that are faulty upon delivery or not as described. These legal rights are not affected by the detail of the Returns Policy.
- 10.2. Where there is a problem with an order, such as the wrong Artwork arrives or any Artwork is faulty or missing, then ArtMakers ask that the Buyer contact the Seller directly using the "Send Enquiry" form available on the Seller's Profile page on the Website or email ArtMakers at [admin@artmakers.uk](mailto:admin@artmakers.uk) within 14 days after the day the Artwork is delivered.
- 10.3. The Seller provides a warranty that on delivery the Artwork shall be free from material defects. The Seller's warranty does not extend to any defects in the Artwork arising from;
  - 10.3.1. Fair wear and tear whilst the Artwork is in the possession of the Buyer or any other third party;
  - 10.3.2. Wilful damage, abnormal storage or working conditions, accident, negligence by the Buyer or by any third party;
  - 10.3.3. If the Buyer fails to use the Artwork in accordance with its intended purpose;
  - 10.3.4. Any alteration or repair by the Buyer or by a third party unless the Artwork is altered or repaired by one of ArtMakers authorised repairers and any alteration or repair is authorised by Artmakers in advance of any alteration or repair ; or
  - 10.3.5. Arising from any specification provided by the Buyer.
- 10.4. Depending on the problem with the order the Seller will agree the next action with you which may include providing replacement Artwork or arranging a return and/or refund.
- 10.5. In the event that the Buyer wishes to return the Artwork and claim a refund, the Buyer should send photos of the damaged Artwork and packaging and retain the Artwork and packaging in case an inspection is required by the Seller or their insurer.
- 10.6. Once Artwork has been returned ArtMakers may in their sole discretion investigate or decline to process any transaction involving any Artwork purchased via the Platform.
- 10.7. All returns shall be carried out in accordance with the terms of Section 9 above.

## **11. BUYER PROTECTIONS (ARTMAKERS LIABILITY)**

- 11.1. If ArtMakers fail to comply with these Terms, ArtMakers are responsible for loss or damage suffered that is a foreseeable result of Artmaker's breach of these Terms or ArtMakers negligence, but are not responsible for any loss or damage that is not foreseeable. Loss or damage is foreseeable if it was an obvious consequence of the breach or if it was contemplated by both parties at the time the Contract was entered into.
- 11.2. ArtMakers supply Artwork for domestic and private use. By purchasing, the Buyer agrees not to use the Artwork for any commercial, business or re-sale purposes, and ArtMakers have no liability for any loss of profit, loss of business, business interruption, or loss of business opportunity.



- 11.3. ArtMakers do not exclude or limit liability for;
- 11.3.1. Death or personal injury caused by our negligence;
  - 11.3.2. Fraud or fraudulent misrepresentation; or
  - 11.3.3. As otherwise precluded by statute.
- 11.4. Except as expressly stated in the Terms, ArtMakers do not give any representation, warranties or undertakings in relation to the Artwork. Any representation, condition or warranty which might be implied or incorporated into the Terms by statute, common law or otherwise is excluded to the fullest extent permitted by law. In particular, Artmakers will not be responsible for ensuring that the Artworks are suitable for your purposes.
- 11.5. Other than those implied by law where the Buyer is dealing as a Consumer, in the event of our breaching any of the Terms, Buyers remedies are limited to damages which in no circumstance whatsoever will exceed the price of the Artwork.
- 11.6. Buyers will indemnify ArtMakers against all claims, costs and expenses which ArtMakers may incur, and which arise, directly or indirectly, from the Buyers breach of any of its obligations under the Terms.

## **12. THIRD PARTY RIGHTS**

- 12.1. Nothing in these Terms is intended to confer any benefit or entitlement on any person other than as provided for in this agreement and no such other person shall have any rights to enforce any of the Terms, whether under the Contracts (Rights of Third Parties Act) 1999 or otherwise.