

TERMS AND CONDITIONS FOR ONLINE SALE OF GOODS

Version number: 1.0

Effective date: 18th September 2023

1. Introduction

- 1.1 We are “Kerry Lindsell – Fine Art”. Our contact information is at the end of this document.
- 1.2 These are our terms and conditions which apply when you buy any goods from us via our website. (Separate terms apply to general use of our site.) They’re available in English only. We’ve tried to make them user-friendly but please note that the summaries/explanations for each section in capitals aren’t a substitute for the rest of the text. Please read the entire document carefully and contact us if anything is unclear. Please save a copy as we don’t file a copy specifically for the transaction with you.
- 1.3 Where we refer to “Consumer” below we mean an individual acting for purposes which are wholly or mainly outside that person’s trade, business, craft or profession.

2. Who can buy on our site

THIS SECTION EXPLAINS CERTAIN RESTRICTIONS THAT MAY MEAN THAT YOU AREN’T ALLOWED TO MAKE A PURCHASE ON THIS SITE

- 2.1 You are not allowed to buy any goods via this site if your main purpose is to use them to infringe our intellectual property or other legal rights.
- 2.2 Where you communicate with us on behalf of a company / organisation, you promise that you have authority to act on behalf of that entity.

3. Changing these terms and conditions

IN SHORT: WATCH OUT FOR CHANGES TO THESE TERMS IF YOU BUY AGAIN

- 3.1 We may change these terms and conditions at any time. Please check them carefully as they will apply to anything you buy after the effective date shown at the top.

4. Giving us information

IN SHORT: TAKE CARE TO GIVE US ACCURATE INFORMATION

- 4.1 You agree to ensure that your order, including delivery address and any other information you supply to us, is correct and that you tell us immediately if there are any changes.

5. How you enter a legal contract with us

THIS SECTION TELLS YOU HOW AND WHEN YOU BECOME LEGALLY BOUND BY A CONTRACT WITH US

- 5.1 You place your order by using the ordering process on our site. This involves selecting the goods, placing them in the shopping cart and sending your order to us by clicking on the relevant button. Your order is an offer to buy from us. We accept your offer and there is a binding legal contract when we send you a confirmation email.

6. Unavailability

IN SHORT: WE ARE NOT OBLIGED TO SUPPLY GOODS THAT ARE UNAVAILABLE

- 6.1 We are not obliged to supply any goods that become unavailable for any reason despite us having accepted your offer. We will notify you of the unavailability as soon as possible and will cancel the order and arrange for a full refund if you have paid.

7. Paying us

THIS SECTION COVERS YOUR PAYMENT OBLIGATIONS

- 7.1 Payment is in advance. Prices and payment methods are as explained on our site. The prices shown include any applicable VAT or other sales tax unless we say otherwise. We are entitled not to send you the goods until we have received full payment in cleared funds.
- 7.2 Any applicable delivery charges will be shown when you place your order and may depend on the delivery method chosen. NB Delivery charges don't include customs or import duties which may be applied to your order by the relevant authorities. We have no control of these, and it is your separate responsibility to pay for them. We recommend that you check with your local customs office in advance.
- 7.3 If we have mispriced any item by mistake, we are not obliged to supply the item at that price provided we tell you before we send it off. If we do, then you can decide if you want to order the item at the right price but, if you do not, we will cancel the order and provide a full refund of any payments already made.
- 7.4 You agree to contact us immediately with full details if you dispute any payment.
- 7.5 You agree that you are legally bound by the terms and conditions of any payment providers whose services you use when paying for our goods. We aren't responsible for what they do or don't do.

8. Discount codes

THIS SECTION TELLS YOU HOW YOU ARE ALLOWED TO USE DISCOUNT CODES ON OUR SITE

- 8.1 Discount codes refer to the price exclusive of delivery charges.
- 8.2 You can only use codes to make purchases through the account for which the discount code was offered and registered. You must not sell or transfer codes to anyone else.
- 8.3 Unless we say otherwise: codes expire after 30 days, they can only be used once for future new orders placed online and you can only use one discount code per transaction.
- 8.4 We may suspend or cancel codes and/or cancel any relevant purchase and/or close any relevant account if we think that the codes have been used fraudulently, illegally

or in breach of our terms and conditions or if a relevant payment is charged back or otherwise cancelled or reversed or if.

- 8.5 Codes are subject to any additional specific terms and conditions which are specified at the point of issue. We reserve the right to discontinue or otherwise modify any discount codes at any time without prior notice.

9. Our right to end the contract

THIS SECTION TELLS YOU WHEN WE CAN DECIDE NOT TO SEND YOU THE GOODS

- 9.1 We are entitled to end this contract at any time including not sending you the goods if:

- any amount due to us is unpaid or charged back;
- you or anyone on your behalf acts inappropriately towards our staff or agents; or
- acting reasonably, we think that you have not complied with these terms or that it is necessary to protect you, us or others.

- 9.2 Ending this contract will not affect any existing rights and liabilities and all terms in this contract which are stated or intended to continue after termination will continue to apply.

10. Delivery

THIS SECTION SETS OUT OUR AND YOUR RESPONSIBILITIES IN CONNECTION WITH DELIVERY

- 10.1 Delivery is only to the countries we specify on our website and is subject to any other delivery restrictions or requirements explained on our site. We have the right to cancel any order for delivery to a location to which we don't deliver (even if there is a legal contract). You agree to pay us any additional delivery costs we incur if we decide to deliver outside our normal delivery area.
- 10.2 Unless we say otherwise, delivery timescales on our website are estimates only. We aren't responsible for delays in delivery (a) if due to circumstances beyond our reasonable control and where we could not have taken reasonable steps to deal with the delay or (b) if you haven't given us adequate delivery instructions.
- 10.3 We are allowed to deliver different parts of your order on different dates.
- 10.4 You agree to alert us in advance to any access restrictions.
- 10.5 If there is no answer, we may, but aren't obliged to, leave the goods at the doorstep, hall or reception as available, or with a neighbour.
- 10.6 If you receive notification of an unsuccessful attempted delivery, you agree to use the details provided to immediately contact the courier to arrange re-delivery. If our courier returns the item to us because they have been unable to deliver it, we are allowed to cancel the contract, in which case we will refund the price paid but excluding the delivery charge.

- 10.7 If you have failed to comply with your obligations regarding delivery, we are entitled to abort delivery and you agree to pay us the amount of any delivery, storage, insurance or other costs that we incur. We are entitled to require that such costs be paid before we arrange re-delivery and/or add them to any future order you make and/or deduct them from any payment due to you (to the extent legally allowed).
- 11. When you become the legal owner of the goods**
 IN SHORT: YOU BECOME THE LEGAL OWNER ONCE THEY'VE BEEN PAID FOR AND DELIVERED
- 11.1 You become owner of the goods after the later of delivery of the goods and payment of the price plus delivery charges. Until that happens, you hold the goods on our behalf. *If you are not a Consumer*, you must identify the goods as ours and keep them separate from your other goods until ownership passes.
- 12. B2BC Consumer legal right to cancel ("cooling off")**
 IN SHORT: CONSUMERS MAY HAVE THE RIGHT TO RETURN UNWANTED GOODS WITHIN 14 DAYS
- 12.1 If you are a Consumer, you may have the legal right to cancel this contract within 14 days of receiving the goods if you comply with the requirements explained in the Annex at the end of this document. This right is not affected by any separate returns policy on our website.
- 13. Restrictions on our legal responsibility for goods – very important**
 THIS SECTION LIMITS OUR LEGAL RESPONSIBILITY IN VARIOUS WAYS AND MAKES YOU RESPONSIBLE FOR CERTAIN LOSSES WE SUFFER, EG IF YOU BREAK THE CONTRACT
- 13.1 Nothing in this agreement in any way limits or excludes our liability for negligence causing death or personal injury or for fraud or fraudulent misrepresentation or for anything which may not legally be excluded or limited. In this section, any reference to us includes our officers, employees and agents, who have the right to enforce this agreement.
- 13.2 *The following clauses apply only if you are a Consumer:*
- We are under a legal duty to supply goods that are in conformity with the contract. Nothing in our agreement affects your legal rights relating to goods that don't conform with the contract, whether because they are faulty, not as described or otherwise. You can get advice about your legal rights from your local Trading Standards office or Citizens' Advice Bureau.
 - Subject to the above, we are not responsible for any loss or damage where:
 - there is no breach of a legal duty owed to you by us;
 - such loss or damage was not reasonably foreseeable (meaning it was not an obvious consequence of our breach or not contemplated by you and us at the time we entered into this contract);
 - (and to the extent that) such loss or damage is your fault, for example by not complying with this agreement; or
 - such loss or damage relates to a business (as we do not intend for goods bought by Consumers to be used for business).

- You will be responsible to us for any reasonably foreseeable loss or damage we suffer (including claims made by other people) resulting from your breach of this agreement.

13.3 *The following clauses apply only if you are not a Consumer:*

- Subject to the other terms of this agreement, we warrant that, upon delivery and for a period of twelve months thereafter, the goods will be free from material inherent defects.
- To the fullest extent allowed by law, you and we exclude all terms, conditions, warranties and representations howsoever arising, whether imposed by statute or by law or otherwise, that are not expressly stated in this agreement.
- Subject to the first paragraph in this section (“Nothing in this agreement...”), we shall under no circumstances whatever be liable under or in connection with this agreement, whether in contract, tort (including negligence), misrepresentation, breach of statutory duty, or otherwise, for any:
 - loss of profit; loss of data; loss of use; loss of production; loss of contract; loss of opportunity; loss of savings; or harm to reputation or loss of goodwill; or
 - indirect, consequential or special losses.
- Subject to the first paragraph in this section (“Nothing in this agreement...”), our entire liability in respect of all other losses arising under or in connection with this agreement whether in contract, tort (including negligence), misrepresentation, breach of statutory duty or otherwise, shall in no circumstances exceed the price paid for the relevant goods.
- You agree to indemnify us against all claims and liabilities arising out of or in connection with your breach of this agreement (except insofar as we are at fault).
- This agreement constitutes the entire agreement between us with respect to its subject matter and supersedes any previous communications or agreements between us. We both acknowledge that there have been no misrepresentations and that neither of us has relied on any pre-contractual statements.

14. Intellectual property rights (IPR)

IN SHORT: YOU DON'T ACQUIRE ANY IPR IN THE GOODS

- 14.1 Your purchase of goods from us does not of itself give you the right to use or exploit any IPR comprised in or relating to the goods. Please note that we retain ownership of copyright in any artwork displayed on the goods.

15. Your personal information

IN SHORT: OUR PRIVACY POLICY APPLIES

- 15.1 You agree that we can deal with your personal information in accordance with our [Privacy Policy](#) which may change from time to time.

16. Things we can't control

IN SHORT: WE AREN'T RESPONSIBLE FOR “ACTS OF GOD”

- 16.1 We are not liable for failure to perform or delay in performing any obligation under this agreement if the failure or delay is caused by any circumstances beyond our

reasonable control including third party telecommunication failures and epidemics/pandemics.

17. Transferring this contract to someone else

IN SHORT: WE CAN PASS THIS CONTRACT TO SOMEONE ELSE BUT YOU NEED OUR PERMISSION TO DO LIKEWISE

- 17.1 We may transfer all or part of our rights or duties under this agreement provided we take reasonable steps to ensure that your rights under this agreement are not prejudiced. As this agreement is personal to you, you may not transfer any of your rights or duties under it without our prior written consent.

18. English law and courts

IN SHORT: ENGLISH LAW APPLIES AND ONLY UK COURTS CAN ADJUDICATE ON DISPUTES

- 18.1 These terms and conditions are under English law and any disputes will be decided only by the courts of the United Kingdom. If you are a Consumer, you will benefit from any mandatory provisions of the law of the country in which you are resident. Nothing in these terms and conditions affects your rights as a Consumer to rely on such mandatory provisions of local law.

19. General

HERE ARE SOME FINAL BUT IMPORTANT POINTS THAT APPLY

- 19.1 We may send all notices under this agreement by email to the most recent email address you have given us. You can send notices to our email address shown below. Headings used in this agreement are for information and not binding. If any part of this agreement is ineffective or unenforceable for any reason, the rest of the agreement will still apply. If either of us overlooks any breach of this agreement by the other, it can still be actioned later. A person who is not a party to this agreement can't enforce it unless the agreement says otherwise. The parties are independent contractors and, except as otherwise specifically stated above, nothing in this agreement makes any party an agent, employee or representative of the other.

20. Information about us

- 20.1 Name: Kerry Lindsell trading as "Kerry Lindsell – Fine Art"
 20.2 Business address: 9 Braeval, Aberfoyle, Stirling FK8 3UY, UK
 20.3 Contact email address: kalindsell@gmail.com
 20.4 Other contact information: See our website/contact page

ANNEX

YOUR LEGAL RIGHT TO CANCEL THIS CONTRACT ("COOLING OFF")

The following applies ONLY if you have the legal right to cancel this contract (as explained above):

Right to cancel

1. You have the right to cancel this contract within 14 days without giving any reason.

2. The cancellation period will end after 14 days from the day:
 - a) on which you, or someone you choose, receives the goods;
 - b) if multiple goods from one order are delivered separately: when you, or someone you choose, receives the last item.
 - c) if a single item consists of multiple lots or pieces: when you, or someone you choose, receives the last lot/piece.
3. To exercise the right to cancel, you must tell us, Kerry Lindsell – Fine Art, 9 Braeval, Aberfoyle, Stirling FK8 3UY, UK, email address above, of your decision to cancel this contract by a clear statement (e.g., a letter sent by post or e-mail). You may use the model cancellation form below, but you don't have to.
4. To meet the cancellation deadline, you must send your communication telling us you want to cancel before the cancellation period ends.

Effects of cancellation

5. If you cancel this contract, we will refund all payments received from you, including delivery charges (except for the additional cost if you choose any delivery option apart from the cheapest).
6. We may make a deduction from the refund for loss in value of any goods supplied, if the loss is the result of unnecessary handling by you. You are only liable for any reduced value of the goods resulting from handling that goes beyond what is necessary to establish the nature, characteristics and functioning of the goods.
7. We will make the refund without undue delay, and no later than:
 - a) 14 days after the day we receive back from you any goods supplied, or
 - b) (if earlier) 14 days after the day you provide evidence that you have returned the goods.
8. We will make the refund using the same means of payment you used for the initial transaction, unless you expressly agree otherwise; in any event, you will not incur any fees as a result of the refund. We may withhold the refund until we have received the goods back or you have supplied evidence of having sent back the goods, whichever we get first.
9. You must send back the goods or hand them over to us at our above contact address without undue delay and in any event not later than 14 days from the day you send us your cancellation of the contract. The deadline is met if you send back the goods before the 14 days has expired.
10. You must pay the direct cost of returning the goods.

MODEL CANCELLATION FORM

Complete and return this form only if you wish to cancel the contract:

— To Kerry Lindsell – Fine Art, 9 Braeval, Aberfoyle, Stirling FK8 3UY, UK, email address above:

- I/We [*] hereby give notice that I/We [*] cancel my/our [*] contract of sale of the following goods [*]/ for the supply of the following service [*],
- 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

[*] Delete as appropriate