

UNICORN GALLERY

TERMS AND CONDITIONS

The following terms and conditions govern your use of the *Unicorn Gallery* services and the materials available therein ("Materials"):

1. DEFINITIONS

The following words shall mean:

- **Buyer:** Buyer
- **Conditions:** the terms and conditions set out in this document
- **Contract:** any contract between the Buyer and *Unicorn Gallery* for the sale and purchase of the Goods.
- **Delivery Point:** the place at which the Buyer collects the Goods
- **Goods:** the goods that the Buyer agrees to purchase from *Unicorn Gallery*
- **Retail Price:** the price for the goods excluding carriage, packing and insurance but including VAT shall be the price set out in *Unicorn Gallery* current price list at the date on which an order is made
- **Trade Price:** the price for the goods excluding carriage, packing and insurance not including VAT shall be the price set out in *Unicorn Gallery* current price list at the date on which an order is made
- **Seller:** *Unicorn Gallery, PO Box 685, Godalming GU7 9AA, United Kingdom*
- **Working Day:** Monday to Friday excluding bank and other public holidays

2. APPLICATION OF TERMS

- The Contract shall be on these Conditions to the exclusion of any other terms and conditions.
- Any order for Goods from the Buyer shall be deemed to be an offer to purchase the Goods subject to these Conditions.
- No terms or conditions endorsed upon, delivered with or contained in any Seller's/Sellers' purchase order, confirmation of order, specification or other document shall form part of the Contract. The Conditions shall not be varied unless any agreement to vary is recorded in writing and signed by the Seller and Buyer.
- No order placed by the Buyer will be accepted by the Seller until he/she/it/they have/has sent to the Buyer acknowledgement and acceptance of the order. Upon the Seller sending the acknowledgement and acceptance of the order, the Seller and the Buyer will have a binding contract between them.
- The Buyer warrants that all the details in the order are complete and accurate.
- The Conditions shall apply to the sale of all Goods. Save as has been specifically provided for in the Conditions, any representations relating to the Goods shall not be effective unless expressly agreed in writing and signed by both the Seller and the Buyer.

3. THE GOODS

- The Buyer acknowledges that they have entered into the Contract as a result of their inspection or knowledge of the Goods and not in reliance upon any description given by the Seller.
- All drawings, descriptive matter, specifications and advertising issued by the Seller are issued or published for the sole purpose of giving an approximate idea of the Goods described in them and shall not form part of the Contract.

4. **COLLECTION OF THE GOODS**

- Unless otherwise agreed in writing by the Seller, he/she/it/they shall make the Goods available for collection at place.
- The Buyer shall collect the Goods within *10* Working Days of the Seller giving notice to the Buyer that the Goods are ready to be collected.
- Any date specified by the Seller for collection of the Goods is intended to be an estimate and time for collection is not and shall not be made of the essence of the contract. If no date is so specified, delivery shall be within a reasonable time.
- The Seller shall not be liable for any loss (including any loss of profit), costs, damages, charges or expenses caused directly or indirectly by any delay in making the Goods (even if caused by his/her/its/their negligence).
- If the Seller fails to make the Goods available for collection by any estimated date for collection or if no estimated date for collection is given, within a reasonable time, the Buyer may terminate or rescind the Contract upon giving notice to Seller for delivery days notice.

5. **TITLE AND RISK**

- Title and ownership to the Goods shall not pass from the Seller to the Buyer until the Seller has received the Price in full together with all other sums payable by the Buyer to the Seller.
- Until title and ownership in the Goods has passed, the Buyer shall hold the Goods and each of them as bailey on behalf of the Seller and on a fiduciary basis retain the Goods separate from his/her/its/their other merchandise and possessions; and keep the Goods identifiably separate.
- The Goods shall be at the risk of the Seller up until he/she/it/they give/gives notice that the Goods are available for collection and thereafter they shall be at the risk of the Buyer.

6. **PAYMENT**

- All invoices are payable when placing an order unless special arrangements have been made otherwise and agreed in writing, and in no circumstances may the Buyer make any deduction or withhold payment for any reason at all.
- If the Buyer fails to pay the invoice by the due date and without prejudice to any rights of the Seller, the Buyer shall:
 - o forfeit any discount given in that invoice or in any other way agreed; and
 - o pay interest on any overdue amount from the date on which payment was due to the date of actual payment (whether before or after judgment) on a daily basis at a rate of *15%* Interest over the base from the time quoted by the Bank and reimburse to the Seller all costs and

expenses (including legal costs) incurred in the collection of any overdue amount.

- The Buyer shall make all payments due under the Contract without any deduction whether by way of set-off, counterclaim, abatement or otherwise unless he/she/it/they has/have a valid court order requiring an amount equal to such deduction to be paid.
- Until the Seller is in possession of cleared funds, the Buyer shall not be deemed to have made a payment.
- If the Buyer does not make payments as required, the Seller may terminate the Contract.

7. **QUALITY**

- If the Seller is not the manufacturer of the Goods, he/she/it/they shall transfer the benefit of any warranty or guarantee that he/she/it/they have/has been given.
- The Buyer accepts that he/she/it/they buys or is deemed to buy the Goods as seen and in the condition they are at the time the order is placed.
- The Seller warrants that the Goods shall be:
 - o of satisfactory quality within the meaning of the Sale of Goods Act 1979 and
 - o reasonably fit for their purpose.
- If any of the Goods do not conform to the warranty in condition. The Seller shall collect the Goods and may:
 - o carry out repairs to the Goods;
 - o replace the Goods or any defective part; or
 - o refund the price of such Goods.
- The Seller shall deliver any repaired or replacement Goods to the Buyer's premises. The Seller's liability for breach of warranty as set out in clause 8 shall be limited to complying with condition and shall not have further liability.
- Note that wooden products may vary in colour and or grain to those items represented by photograph either in any brochure or web based representation.

8. **LIMITED WARRANTY**

- *Unicorn Gallery* represents and warrants that it has the right and authority to make the *Model ship and or Painting* available pursuant to these General Terms and Conditions.
- All services and materials are provided on an "As Is", "As Available" basis and *Unicorn Gallery* and each third party supplier of materials expressly disclaim all warranties, including the warranties of merchantability and fitness for a particular purpose.
- Any damage to goods supplied must be notified to *Unicorn Gallery* within 24 hours of accepting delivery.

9. **LIMITATION OF LIABILITY**

- The Seller shall not have any liability to the Buyer for any loss or damage of any nature arising from any breach of any express or implied warranty or condition of the Contract or any negligence, breach of statutory or other duty on the part of the Seller or in any other way out of or in connection with the performance or purported performance of or failure to perform the contract except:
 - § for death or personal injury resulting from the Seller's negligence; and

§ as expressly stated in these conditions.

· The Seller shall not be liable for any defect arising from any design or specification provided or made by the Seller or if any adjustments, alterations or other work has been done to the Goods by any person except the Seller or his/her/its/their authorized agent.

· The Seller shall not be liable where any Goods are lost or damaged in transit. All claims by the Buyer shall be made against the carrier.

10. WEBSITE ACCESS

Only individuals authorized by *Unicorn Gallery* may access and use the website www.unicorngallery.co.uk. You may not use an identification number to access www.unicorngallery.co.uk from outside the country for which it was issued.

Your identification number(s) may be restricted from accessing certain Materials otherwise available in www.unicorngallery.co.uk and features may be added to or withdrawn from www.unicorngallery.co.uk and the Services otherwise changed without notice.

11. WEBSITE COMMUNITY RULES

You agree to use Unicorn Gallery Communities (including Message Boards) in accordance with the following Community Rules. These apply across all *Unicorn Gallery* community sites and services. You should, however, read the local house rules of the particular site or service you're using, as there may be some local variations to these Community Rules.

About your posts:-

- Contributions must be civil and tasteful.
- No disruptive, offensive or abusive behaviour: contributions must be constructive and polite, not mean-spirited or contributed with the intention of causing trouble.
- No unlawful or objectionable content: unlawful, harassing, defamatory, abusive, threatening, harmful, obscene, profane, sexually oriented, racially offensive or otherwise objectionable material is not acceptable.
- If you use multiple logins for the purpose of disrupting the community or annoying other users you may have action taken against your accounts. Be patient: users of all ages and abilities may be taking part in the relevant www.unicorngallery.co.uk Community.
- No spamming or off-topic material: we don't allow the submission of the same or very similar contributions many times.
- Please do not re-submit your contribution to more than one discussion, or contribute off-topic material in subject-specific areas.
- No advertising.
- No spoilers: material which contains plot developments which haven't been transmitted on *UK* analogue or digital television will be deleted unless submitted in a designated 'spoilers' area.
- Contributions containing languages other than *English* may be removed unless allowed in the relevant local house rules.
- No impersonation
- No inappropriate (e.g. vulgar, offensive etc) user names.
- You may not refer to specific URLs (web site addresses) unless allowed under the relevant

local house rules. If you know of a worthy web site relevant to the discussion topic, please inform the host of the Community area.

- Deliberate misuse of the complaints facility is not permitted. If you persist in doing this action may be taken against your account.

Safety: -

We advise that you never reveal any personal information about yourself or anyone else (for example: telephone number, home address or email address), and please do not include postal addresses of any kind. If you have a helpful address to share, inform the host of the relevant Community area using the 'Contact Us' link, and they will promote it if they see fit.

About the law:

- You may not submit any defamatory or illegal material of any nature in www.unicorngallery.co.uk Communities. This includes text, graphics, video, programs or audio.
- Contributing material with the intention of committing or promoting an illegal act is strictly prohibited.
- You agree to only submit materials which are your own original work. You must not violate, plagiarise, or infringe the rights of third parties including copyright, trade mark, trade secrets, privacy, publicity, personal or proprietary rights.
- The views expressed in www.unicorngallery.co.uk Community areas are those of members of the public and are not necessarily those of the *Unicorn Gallery*.

If you're under 16:

- Please get a parent's or guardian's permission before taking part in any www.unicorngallery.co.uk discussion.
- Never reveal any personal information about yourself or anyone else (for example, telephone number, home address or email address).

If you breach these Terms of Use:-

If you fail to abide by these Community Rules (and/or any variations in the relevant local house rules) when taking part in a www.unicorngallery.co.uk service, you will be sent an e-mail which informs you why your contribution has been failed or edited. This mail will also include a warning that continuing to break the rules may result in action being taken against your account or accounts. This action may include your relevant account or accounts being placed into pre-moderation or a temporary or permanent suspension of your ability to participate in any or all of www.unicorngallery.co.uk Community areas. If you post or send offensive or inappropriate content anywhere on or to www.unicorngallery.co.uk Communities or otherwise engage in any disruptive behavior on www.unicorngallery.co.uk and *Unicorn Gallery* considers such behavior to be serious and/or repeated, *Unicorn Gallery* may use whatever information that is available to it about you to stop any further such infringements. This may include informing relevant third parties such as your employer, school or email provider about the infringement(s). *Unicorn*

Gallery reserves the right to delete any contribution, or take action against any account, at any time, for any reason.

12. **CONTRIBUTION TO *Unicorn Gallery* OF**
www.unicorngallery.co.uk

Where you are invited to submit any contribution to <*Company name, or URL website*> (including any text, photographs, graphics, video or audio) you agree, by submitting your contribution, to grant the a perpetual, royalty-free, non-exclusive, sub-licensable right and license to use, reproduce, modify, adapt, publish, translate, create derivative works from, distribute, perform, play, make available to the public, and exercise all copyright and publicity rights with respect to your contribution worldwide and/or to incorporate your contribution in other works in any media now known or later developed for the full term of any rights that may exist in your contribution, and in accordance with privacy restrictions set out in the *Unicorn Gallery* Privacy Policy. If you do not want to grant to the *Unicorn Gallery* the rights set out above, please do not submit your contribution to www.unicorngallery.co.uk

13. **ASSIGNMENT**

- The Seller may sub-contract the performance of any of its obligations under the Agreement to any parent, subsidiary or associated Company but the sub-contracting shall not relieve it of any liability under the Contract.
- The Seller and the Buyer shall not assign, delegate or otherwise deal with all or any of their rights and obligations under the Contract.

14. **FORCE MAJEURE**

- If the performance of the Contract or any obligation under it is prevented, restricted, or interfered with by reason of circumstances beyond the reasonable control of the Seller and he/she/it/they gives prompt notice to the Buyer, the Seller shall be excused from the performance to the extent of the prevention, restriction, or interference, but the Seller shall use his/her/its/their best endeavors to avoid or remove the causes of non-performance and shall continue performance under the contract with the utmost dispatch whenever the causes are removed or diminished.

15. **GENERAL**

If there is any conflict between these terms and specific terms appearing elsewhere (including local house rules) then the latter shall prevail.

- Each right or remedy that the Seller and the Buyer has under the Contract is without prejudice to any other right or remedy that may exist.
- In the event that any provision of the Contract is declared by any judicial or other competent authority to be void, void able, illegal, or otherwise unenforceable or if an indication to that effect is received by either the Buyer or the Seller from any competent authority, the Buyer and the Seller shall amend that provision in such reasonable manner as achieves the intention without illegality.

- If the Seller or the Buyer:
- fails or delays to exercise any right or remedy, it shall not operate as a waiver of it; and
- partially exercises any right or remedy, neither of them shall be precluded from further exercising the right, remedy or other power.
- Any waiver of a breach of any provision of the Contract shall not:
- be deemed to be a waiver of any subsequent breach or default; and
- affect the other terms of the Contract.

If any of these terms are determined to be illegal, invalid or otherwise unenforceable by reason of the laws of any state or country in which these terms are intended to be effective, then to the extent and within the jurisdiction in which that term is illegal, invalid or unenforceable, it shall be severed and deleted from these terms and the remaining terms shall survive, remain in full force and effect and continue to be binding and enforceable. These terms shall be governed by and interpreted in accordance with the laws of *The United Kingdom of Great Britain*.

16. INTELLECTUAL PROPERTY

The names, images and logos identifying *Unicorn Gallery*, or third parties and their products and services are subject to copyright, design rights and trade marks of *Unicorn Gallery* and/or third parties. Nothing contained in these terms shall be construed as conferring by implication, estoppels or otherwise any licence or right to use any trademark, patent, design right or copyright of *Unicorn Gallery* or any other third party.

17. MISCELLANEOUS

- These General Terms and Conditions, including the Additional Terms, may be changed from time to time as described below or by written agreement. Charges and payment terms may be changed in accordance with your applicable price schedule; all other provisions may be changed by *the Directors Unicorn Gallery* immediately upon notice.
- *Unicorn Gallery* may terminate the subscription for access to the website www.unicorngallery.co.uk. The effective date of termination shall be ten days after the receipt of an appropriate notice of termination, unless a later date is specified in the notice. *Unicorn Gallery* may suspend or discontinue providing the Services to you without notice and pursue any other remedy legally available to it if you fail to comply with any of your obligations hereunder.
- Except as otherwise provided herein, all notices and other communications hereunder shall be in writing or displayed electronically in the Services by the provider thereof. Notices shall be deemed to have been properly given on the date deposited in the U.S. mails, if mailed; on the date first made available, if displayed in the Services; or on the date received, if delivered in any other manner. Notices to the provider of the Services should be sent to your account representative.
- The failure of the provider of the Services or any third party supplier of Materials to enforce any provision hereof shall not constitute or be construed as a waiver of such provision or of the right to enforce it at a later time.
- The subscribing organization or individual may not assign its rights or delegate its duties under the subscription to access the Services without the prior written consent of the provider of the Online Services.

- These General Terms and Conditions and the Additional Terms shall be governed by and construed in accordance with the laws of the *United Kingdom of Great Britain*.
- Each third party supplier of Materials has the right to assert and enforce these provisions directly on its own behalf as a third party beneficiary.

18. NOTICES

- Any notice to be given under the Contract shall be:
 - o delivered personally;
 - o sent by first class prepaid recorded delivery or registered post; or
 - o by fax or electronic mail.
- A notice shall be deemed and served as follows:
 - o if personally delivered, at the time of delivery;
 - o if posted, within 48 hours of posting or in the case of airmail seven days after the envelope was delivered into the custody of the postal authorities; and
 - o if sent by fax, the time of transmission.