

## **REPRESENTATION AGREEMENT & TERMS & CONDITIONS**

This is the Agreement and Terms and Conditions we have with you 'the artists' and us 'Artellite', to enable us to each know and understand our obligations when working together online and when sales are made as a result of your presence on our website/s.

Artellite operates the following platforms:

- DegreeArt.com
- Contemporary Collective
- DegreeArt.cn
- Artellite.co.uk

If we exhibit your work offline at exhibitions or art fairs, you will be asked to sign a separate Agreement.

**We realise it is quite a long but ask that you take the time to read through each point and do ask us any questions that you may have.**

You will need to have read, signed and agreed to this Agreement and our General Terms and Conditions before we can market your online through any of our Artellite websites (including but not limited to Artellite, Contemporary Collective, DegreeArt.cn), at exhibitions or art fairs and sell your artwork.

From time to time, we may amend this Agreement and or the Terms and Conditions and will give 30 days' notice via the weekly 'The News' e-mail, dedicated email or by posting the amended Agreement on our site. Any amended Agreement will govern new artists' signing up with us from the date of receipt.

Existing artists will be covered by the amended Agreement and Terms and Conditions, after the expiry of 30 days, following the date of notice. No other amendment to this Agreement or Terms and Conditions will be effective unless made in writing, signed by you and by Artellite.

**This Agreement and Terms and Conditions are effective from 17th February 2017 for registering artists and 03rd August 2017 for registered artists.**

## **Breach of Agreement or Terms & Conditions**

If you breach this agreement or Terms and Conditions, we may immediately warn you, suspend your profile and artwork from the website or end our Agreement. Additionally the above will apply if we are unable to authenticate any information you have given us about your artwork or practice or if we believe that your actions may cause legal liability for you, our users and customers or us.

Artists must not provide false information of any kind including, but not limited to, prices, availability of work, editions of work, University of study, date of graduation and degree classification. Any breach of this will result in the Agreement being potentially terminated and possible legal action being taken should the breach have financial repercussions for us.

# **THE AGREEMENT**

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## 1. Listing and Selling

As an Artellite artist, you must ensure that you are legally able to sell each artwork included on your page and that it is lawful to sell such items to UK residents and residents overseas, if appropriate.

All items need to be listed in an appropriate category. This ensures your artwork can be found by clients searching our websites.

Because of the time, effort and finances invested into making sales, any loss of revenue owed to Artellite because of a lost sale due to artist error, negligence, or unwillingness to cooperate, will result in the artist being liable for Artellite's lost sales revenue (typically 40% or 50% of the agreed sale price).

You are responsible for updating your profile and products. If we become aware that your profile and artworks are not being kept current, we may suspend your profile to give you time to update.

Exhibiting Artwork Whilst it is listed on Artellite:

Subject to a separate, individual agreement, you may, at any time show your artwork outside of the Artellite website for example in exhibitions or competitions on the condition that your profile is amended and Artellite are informed 30 days in advance, by email, or telephone. This is to enable it to be marked as unavailable during that period. If artwork is subject to current or pending marketing activities including but not limited to being under offer with a client or due to be exhibited or included in a PR campaign, permission may be refused so as not to lose the sale.

## 2. Artwork Exclusivity

All Original (artwork that is unique) artwork published on Artellite must only be for sale Online through Artellite.

Artwork that is in a Limited Edition, we ask you to make available a specific number of the edition exclusively on Artellite.

You will ensure that your pricing is consistent across all online and offline platforms that you sell on and will update your prices within 3 working days of any permanent changes occurring.

Any art submitted by you to the site will be bound for sale on Artellite until removed. Artists may recall their artwork, as long as no sale requests have been made, providing the artist gives 30 days' notice.

### 3. The Sale Process

When you receive an order request for your artwork, either via an automated email or from a member of the team, you agree to make contact with the team within 24 hours and dispatch your item as quickly as possible (best practice is 48 hours) but within no longer than 5 days.

The email will provide details of what has sold and where to send it (usually the gallery).

### 4. Pricing

Artellite will always endeavour to obtain the fairest price for your work.

Artwork pricing MUST be consistent wherever you are showing, or listing your artwork, even from your studio. The price you arrive and sell at, at a moment in time, is then the current market value of your work.

If you advertise artwork for sale for less than a previous client paid, you can risk devaluing your artwork and undermining previous customers investment in your artwork Please discuss all pricing changes with us as we are happy to give guidance.

### 5. Commission Structure

Artellite will pay the artist commission as set out below, on the price listed on Artellite, less VAT (currently 20%) on Artellite's commission (50% offline\* and 40% online).

| <b>Sale Type</b>      | <b>Commission Charged to Artist</b> |
|-----------------------|-------------------------------------|
| Online                | 40% + VAT                           |
| Offline               | 50% + VAT                           |
| 3 <sup>rd</sup> Party | 50% + VAT                           |
| Artellite Marketplace | 20% + VAT                           |

### Online

Commission Rate applies when a client transacts and checks-out directly online. You will be notified of any sales made instantly by the system.

### Offline

Commission Rate applies to artwork commissions, art fair sales, gallery exhibition sales and client viewings of the works at the gallery, or when Artellite has had physical intervention in the sale of the artwork. You will be notified by the email system or by a team member once the sale has been confirm.

### 3<sup>rd</sup> Party

By accepting representation with Artellite you understand that Artellite may choose to advertise your work, for sale, through third party retailers both online and offline. Any sales made through these parties will be subject to 50% +VAT commission.

The artist agrees to sell only through any Artellite profile/ shops on third party retail outlets where Artellite has a presence.

### Artellite Marketplace

If your work is available through the Artellite Marketplace, on [www.Artellite.co.uk](http://www.Artellite.co.uk) you will be charge 20% +VAT. You will be notified of any sales made instantly by the system.

## **6. Discounts**

Artellite reserves the right to apply up to a 15% discount, which will be shared between us and you, to the price of a piece of work if this is deemed appropriate and necessary during a sale to a client, or offered in marketing collateral as part of a client incentive.

Any further discounts or price reductions will be discussed and agreed with the artists prior to the sale.

If you wish to offer a discount on the pricing of artwork listed for sale through Artellite, please make sure you discuss with a member of the Artellite team before any changes are made on the website. We will confirm with you via email.

## 7. Taxes

By joining Artellite, you confirm and accept responsibility for paying all applicable taxes you may be liable for (i.e. Income Tax).

## 8. VAT & Margin Scheme

Artellite operates HMRC's Margin Scheme.

VAT is currently set at 20%.

Please note that VAT is NOT retained by Artellite, it is paid to HMRC.

Example:

:: An artwork sells for £100 Offline with no discounts applied.

:: Artellite Retains £50.00, invoicing the artist for £50.00 + £10 VAT

:: Artist Receives £40 (£100- £50 - £10)

Artellite is always on hand to discuss pricing and to ensure your retails price enables you to receive a fair and sufficient commission from any sale.

## 9. Getting Paid

Once a sale is complete, and the client has received their artwork, Artellite will pay the artist their fees, according to the commission structure detailed above.

The payment will be made on the 15th of the month following that in which the sale was delivered to the client.

For example, payment due to an artist as a result of a successful sale made between the 1st and 31st of January, will be paid on the 15th February.

The reason for this payment structure is that, upon receipt of the artwork at their delivery address, the buyer will have fourteen days to request a refund, which will only be granted if the works are return in the exact state they were dispatched. The artist will not incur any costs involved in the return unless they have provided the incorrect artwork, false information, or withheld information relating to the condition and sale of the artwork.

### Artists Based Outside of the UK

Artists based outside UK must have a PayPal account to receive their payments, otherwise the rate for international payments may be deducted from The Artist's share. This will be discussed at point of payment with the Accounts department.

Any queries regarding getting paid can be sent to [accounts@degreeart.com](mailto:accounts@degreeart.com)

## **10. When a Client Uses Finance**

When clients pay for artwork using a Gallery Agreed monthly instalment plan, The Artist will receive payment for the work when the final instalment has been received.

The artwork will not be released to the client until the artist's commission has been received. The time-span for these agreements is generally no longer than 5 months and The Artist will be informed at point of sale.

Please note – the Pay by Finance/ Own Art scheme is a separate agreement, wherein payment will be received as usual.

## **11. Postage and Packaging of Artwork**

The artist is responsible for the cost of transporting artwork for sale, exhibition or client viewings to Artellite's current location or to the location specified. Artellite will then charge the client shipping costs from that location.

**ADVICE:** We recommend that you factor in the cost of shipping your artwork to London into the sale price.

Artwork must be dispatched to Artellite in a safe manner. Do consider your packaging and ask us for advice if you are unsure. We do not take responsibility for the shipping methods of artwork from artist to gallery, or other specified location.

Artwork must be sufficiently packaged to ensure its safe shipping or transportation.

We want to avoid artwork being damaged at all costs and damage to frames or surfaces will affect the efficient delivery of your work to a client.

Artellite is happy to advise, but not take responsibility for the shipping methods of artwork from artist to gallery, or other specified location.

#### Return of Un-Sold/ Sale Cancelled Artwork

The cost of the pick-up/ return of unsold artwork is to be covered by the artist.

Artellite will assume that your method of packaging is sufficient for safe, damage-free shipping return to you.

## **12. Artist Contact Details & Signature**

No artist contact details must be on, or included in the artwork package.

All artwork must be signed and dated by the artists in order for the sale to complete.

If work is despatched to a client without the appropriate signature or provenance, Artellite reserves the right to charge the artist for any transport and packaging costs involved in returning the work to be signed.

## **13. Insurance Responsibilities**

Artwork in transit from the artist to the gallery must be insured by the artist. Artwork you agree to have stored at the gallery, must be covered by the artist's insurance.

From the time that work is received by Artellite through to the stated pick-up date, Artellite will endeavour in every reasonable way to ensure the safety of works. However, the artist is responsible for insuring their work at all times and Artellite accepts no liability for any damage sustained or thefts occurring whilst artwork is in their care.

**ADVICE:** We highly recommend that you take a photograph of the artwork before it is packaged (front, back and sides) and again once packaged

Once the artwork has been safely received at the gallery in a saleable state and receipt of payment has been taken from the client, responsibility of insuring the artwork then passes to the client.



## **14. Client Details & Contacts**

Any contact made through, or as a result of your presence on the Artellite website, at exhibitions where you are represented by Artellite, may not be pursued privately by the artist for 2 years following any termination of their contract with Artellite.

If contact is made by the buyer (potential or existing) you agree to always inform Artellite. Artists agree to never contact Artellite buyers/ clients to offer artworks or services except through Artellite if the contact was as a result of, or originated from a Artellite introduction, or showcase, on or offline.

If any such communication takes place and results in a sale, Artellite will be owed 50% + VAT of the sale price. Artellite takes this element may pursue legal action against any party breaking this stipulation.

## **15. Copyright, Series and Editions**

If artwork belongs to a series or is part of an edition, this must be stated. It is the artist's responsibility to ensure that series and editions are adhered to and that suitable records are maintained.

If work is despatched to a client without the appropriate provenance, Artellite reserves the right to charge the artist for any transport and packaging costs involved in returning the work to be signed. You must manage your stock levels on the website to reflect the number of an edition available.

## **16. Holiday Notification**

You will let us know of any holidays through the 'Holiday Notification' on your profile or times when you will be out of touch in advance and of any other circumstances that may affect your representation by us.

If you are planning on taking an extended holiday of over 2 weeks, please do ensure someone has access to your artwork and will be able to send to the gallery in the case of a sale.

Unless we have received a holiday notification, we expect to hear a response within 48 hours once we have contacted you regarding a sale using the contact details on your profile. Failure to respond may result in a breach of this Agreement.

## **17. Contact Details**

You will inform Artellite of any changes to your contact details in advance or as soon as possible. Failure to do so could result in missing vital communication from Artellite and the removal of your profile from the website if we have repeatedly been unable to contact you.

## **18. Invitations by 3<sup>rd</sup> Parties to exhibit at Exhibitions, Online or at Art Fairs**

You must inform Artellite if you are currently exhibiting or have an agreement with another gallery to show work at Art Fairs, online or in any other exhibition, both UK and International.

By accepting these Terms and Conditions you agree to offer Artellite right to first refusal on showing your work at Art Fairs and with 3<sup>rd</sup> Party Marketplaces they are exhibiting at or with. If you already exhibit with a gallery then Artellite must receive second right to show your work.

## **19. Artellite is a Portfolio Website**

Artellite is a portfolio website. Artellite acts as a platform that allows registered artists to offer and sell artworks at any time, from anywhere, at a fixed price. We have no control over the safety or legality of artworks listed.

You accept sole responsibility for the legality of your actions under laws applying to you.

In the unlikely event that you have any right, claim or action brought against you, you agree to pursue such right, claim or action independently of and without recourse to us, and you release Artellite from all claims, liability, damages, losses, costs and expenses, including legal fees, known and unknown, arising from, or in any way connected with such claim or action, except for claims ensuing due to our negligence.

We accept no responsibility for the information provided by artists which is made available through our website. You are solely responsible for the information you supply to us.

## **20. Use of Submitted Images**

Unless a request is received in writing, Artellite maintains the right to use the artist's images and details in promotional or marketing material. The artist must express their desire in writing if they do not wish to be included in such material. By accepting this agreement you understand that Artellite cannot retrospectively remove images or information relating to your artwork.

## **21. Website Curation**

Artellite holds the right to the final decision over who and which pieces of artwork are accepted for display on our website, in our exhibitions and at art fairs. Artellite will have the right to withdraw any artist or artwork from the website or exhibitions immediately, without notification, if in breach.

## **22. Cancellation of/ Ending this Agreement**

You acknowledge that we will commence supplying our services (marketing and seeking to sell your artwork) to you once you have completed your Artellite profile, uploaded any artwork and signed this Agreement.

If you wish to cancel your agreement with us, we require 30 days notice in writing (email or posted letter to our gallery address).

# THE TERMS & CONDITIONS

## THE TERMS & CONDITIONS CONTENTS

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### 1. Restrictions on Information You Provide Us

Your information, artworks and your activities relating to Artellite must not:

Be false, inaccurate or misleading;

Be offensive or menacing, abusive, defamatory, or in breach of copyright, confidence, privacy or any other rights;

Infringe any third party's copyright, patent, trademark, trade secret or other proprietary rights or rights of publicity or privacy;

Be fraudulent or involve the sale of counterfeit or stolen items;

Be in breach of any applicable laws or regulation (including, but not limited to, laws governing export control, consumer protection, unfair competition, anti-discrimination or false advertising), licences or third party rights;

Be obscene, indecent or contain child pornography;

Create liability for us or cause us to lose (in whole or in part the services of any of our suppliers;

You must not place items for sale on Artellite that are prohibited under this agreement; for example, if they are concurrently listed for sale anywhere other than Artellite which would not allow Artellite to also sell the item, or that you do not have the right to sell;

Contain any computer viruses, macro viruses, Trojan horses, worms or anything else designed to interfere with, interrupt or disrupt normal operating procedures of a computer or to surreptitiously intercept, access without authority or expropriate any system, data or personal information;

Cause our website to be interrupted, damaged, rendered less efficient or such that the effectiveness or functionality of our website is in any way impaired.

You must not submit any artworks to our website that, by paying to us the commission, could cause us to violate applicable laws.

## **2. Access and Interference**

You agree that you will not and will not induce others to copy, reproduce, alter, modify, create derivative work, or publicly display any content (excluding your personal information) from our website without the prior written consent of Artellite.

## **3. Privacy**

Artellite will hold and transmit your information in a safe, confidential and secure environment. Artellite will never sell or rent your personal information to third parties except as described in our privacy policy.

We will not disclose personal information to any third party unless we believe that disclosure is necessary: (1) to conform to legal requirements or to other legal process received by Artellite, whether or not a response is required by applicable law; (2) to enforce the Artellite Agreement or to protect our rights; or (3) to protect the safety of users of our services.

Artellite reserves the right to transfer personal information to a successor in interest that acquires rights to that information as a result of the sale of, or substantially all of its assets to that successor.

#### **4. No Warranty**

We do not guarantee continuous, uninterrupted or secure access to our website, and operation of our website may be interfered with by numerous factors outside of our control. Our website and our services are provided 'as is' and as and when available, and to the extent permissible by law we exclude all implied warranties, conditions or other terms, whether implied by statute or otherwise, including without limitation any terms as to skill and care or timeliness of performance.

#### **5. Limitation of Liability**

Nothing in this Agreement shall limit or exclude our liability for fraudulent misrepresentation, or death or personal injury resulting from our negligence or the negligence of our servants, agents or employees. Subject to the foregoing, we will not be liable for any economic losses (including, without limitation, loss of revenues, profits, contracts, business or anticipated savings), any loss of goodwill or reputation, or any special, indirect or consequential damage arising out of or in connection with this Agreement.

We also have no liability of any sort (including liability for negligence) for acts or omissions of other providers of telecommunication services or for faults in or failures of their networks and equipment.

Our liability to you or any third party in any circumstance, excluding death or injury, is limited to the greater of the total fees you pay us in the twelve months prior to the action giving rise to liability.

#### **6. Indemnity**

You agree to indemnify and hold us and (as applicable) or affiliates, officers, agents, and employees, harmless from any claim or demand, including reasonable legal fees, made by any third party due to or arising out of your breach of this Agreement (including the documents incorporated by reference), or your violation of any laws or the rights of a third party.

## **7. Notices**

Unless otherwise explicitly stated, notices to Artellite must be sent by registered mail to our current address, and notices to you will be sent to the email address that you provided to Artellite during the registration process (receipt is deemed 24 hours after an email is sent, unless we receive notice that an email address is invalid), or by registered mail. Acceptance forms are valid once posted. Notices sent by registered mail will be deemed received 3 days following the date of mailing.

## **8. Governing Law and Legal Compliance**

This Agreement shall be governed by and construed in accordance with English law and subject to the non-exclusive jurisdiction of English courts.

Once an artwork has been sold, if you and the buyer are both based in the European Union then the seller's local law will govern further dealings as to shipment etc. unless you both explicitly agree otherwise. Note however, that your country (and/or that of any buyer you deal with) may have laws which apply regardless of what you agree with us now or with that user later.

The laws of your country may be different from English law, including laws governing what can be legally offered, sold, exported, bought or imported. You shall comply with all applicable domestic and international laws, statutes, ordinances and regulations.

## **9. Dispute Resolution**

Disputes between you and Artellite regarding our services may be emailed or sent via the post. We encourage you to report all disputes you may enter into that involves in any way Artellite. However, any controversy or claim arising out of, or in connection with this Agreement may at our discretion be settled by binding arbitration by reference to an arbitration tribunal designated by Artellite. Any such controversy or claim shall be arbitrated on an individual basis, and shall not be consolidated in any arbitration with any claim or controversy of any other third party. The arbitration shall be conducted in the UK and judgement on the arbitration award may be entered into any

court having jurisdiction thereof.

## **10. General**

If any provision of this Agreement is held to be invalid or unenforceable, such provision shall be struck out and the remaining provisions shall be enforced.

You agree that this Agreement and all incorporated agreements may be automatically assigned by Artellite, in our discretion, to a third party in the event of a merger or acquisition. You and

Artellite are independent contractors, and no agency, partnership, joint venture, employee-employer or franchiser-franchisee relationship is intended or created by this Agreement. Headings are for reference purposes only and in no way define, limit, construe or describe the scope or extent of such sections. Our failure to act with respect to a breach by you or others does not waive our right to act with respect to subsequent or similar breaches. This Agreement sets forth the entire understanding and agreement between us with respect to its subject matter.