

TERMS OF BUSINESS FOR BUYERS

1. DEFINITIONS (The singular shall include the plural, and vice versa)

"Artwork"	shall refer to any Artwork and other chargeable items whatsoever identified in an Invoice.
"Artist's Resale Royalties"	any applicable artist resale royalty that you must account for in accordance with Clause 8.1.d).
"Buyer"	shall refer to any body, individual or corporate entity, who makes any enquiry about purchasing Artwork from us, and/or purchases Artwork in line with these Terms and our Invoice.
"Collection"	shall refer to you or a third party courier, either authorised by you or us, removing the Artwork from our premises, or any other premises as authorised by us.
"Consignor"	shall refer to any third party Seller we act as agent for in marketing, promoting, and selling their Artwork through a consignment arrangement.
"Consultancy Fees"	shall refer to the commission we charge for our services in sourcing Artwork for you not in stock or on consignment, including our estimated buyer's commission along with any additional fees for services provided to you, such as framing or installation of Artwork.
"Contract"	shall refer to a contract for the sale of goods (Artwork) under the Sale of Goods Act 1979, as constituted by these Terms, any Sale and Purchase Agreement and the Invoice, including any express referencing to ancillary documentation and correspondence, which together shall form the Contract for the sale of Artwork.
"Dealer"	shall refer to Lougher Contemporary Ltd.
"Domain"	shall refer to the country, state, origin, or province to which Artwork is to be shipped.
"Disbursements"	shall refer to such costs as Shipping and insurance, and any other such costs mentioned as Disbursements in the Invoice.
"Gross Sale Price"	shall refer to the total price of the Artwork, together with Consultancy Fees and Artist's Resale Royalties if applicable, but excluding Disbursements.
"Incoterms"	shall refer to international rules for the interpretation of trade Terms of the International Chamber of Commerce as in force at the date when an Invoice is produced.
"Invoice"	shall refer to the document we submit to you requesting payment of the Gross Sale Price and any Disbursements for any Artwork you have requested to Order.
"Lougher Contemporary Ltd"	<p>is an international art dealership and an incorporated trading name in England and Wales, registered at Companies House under company number 09892447, and whose registered offices are at:</p> <p>11 Manvers Street Bath, BA1 1JQ United Kingdom</p> <p>Lougher Contemporary Ltd shall also be referred to as "us", "our", and "we", throughout these Terms, and shall include any directors, officers, employees, affiliates, agents, contractors, interns, suppliers, and service providers, unless stated otherwise throughout these Terms or additional written correspondence, to expressly relate to these Terms.</p>
"Net Sale Price"	shall only refer to the price of the Artwork, excluding Consultancy Fees, Disbursements, and other costs as set out in your Invoice.
"Order"	shall refer to the verbal or written request by you for us to acquire Artwork and/or sell Artwork, if already in stock, to you.
"Our Contact Details"	<p>shall refer to our company registered offices above for a postal address.</p> <p>We can be contacted by telephone on: 00 44 (0) 117 959 6411</p> <p>We can be contacted by email at: info@loughercontemporary.com</p>
"Packing"	shall refer to any packaging materials used in the preparation of Artwork for Shipping.
"Parties"	unless mentioned otherwise, shall refer to "us" and "you".
"Sale and Purchase Agreement"	the written agreement (if any) entered into between us and you as set out in Clause 4.1.
"Seller"	shall refer to any third party we purchase Artwork from, whether or not on your behalf.
"Specification"	shall refer to the description of the Artwork as sold.
"Shipping"	shall refer to any transportation of Artwork within UK mainland or to any other country, state, or province, worldwide.
"Terms of Business"	unless clearly identified as anything different, shall refer to this entire document, which may also be identified as "Terms".
"Total Invoice Amount"	shall refer to the Gross Sale Price plus Disbursements.
"Writing" or "Written"	shall include any form of legible text or writing, including electronic email, successfully delivered.
"You" and "Your"	shall refer to you as the "Buyer".

2. ACCEPTANCE

- 2.1. By raising any query with us by any means for the purchasing of Artwork you are confirming you are at least 18 years of age, or at least the age of majority in your Domain, and agree to be bound by these Terms of Business.
- 2.2. Any reference in these Terms to a provision of a statute shall be construed as a reference to that provision as amended, re-enacted or extended at the relevant time.
- 2.3. These Terms were last updated on 26 February 2019, and from time to time, they, the website, our social media channels and privacy policy, may be updated or amended again at our sole discretion with no prior notice to you other than their republication. Our Terms in force at the conclusion of a particular Contract shall apply to that Contract.
- 2.4. You hereby accept any Incoterms imposed on you by these Terms or the Invoice.
- 2.5. Any 'offer' is made subject to the specific wording of the Contract. Prior to the production of an Invoice, the advertisement or disclosure of the Specification of any Artwork, is merely an 'invitation to treat', and as such, is not an 'offer', and may be subject to change.
- 2.6. We reserve the right, at our sole discretion, to:
 - a) Refuse to sell you Artwork or communicate with you for any reason, including insolvency or bankruptcy, subject to our unfulfilled contractual obligations under these Terms;
 - b) Ask you any questions and carry out due diligence checks in relation to our anti-money laundering obligations as a high value dealer for Total Invoiced Amount valued at €10,000 or more. (The exchange rate for GBP sterling will apply upon the date of Invoice);
 - c) Disclose your personal or company details, together with those of any known or suspected beneficiaries, to relevant anti-money laundering authorities under our obligations as a high value dealer;
 - d) Disclose your personal or company details, with prior notice to you, for any credit checks we may need to carry out on you.

3. PLACING AN ORDER

- 3.1. We market stock, based in our premises, and Artwork on consignment, through various marketing channels, including but not limited to 'artsy.net', 'artnet.com', 'printed-editions.com' and 'globalarttraders.com', and various printed magazines and other such material and mediums, including social media channels and auctions.
- 3.2. We limit our liability for representations made through our marketing channels and any communications prior to submitting an Invoice. As Dealers, we sell Artwork 'as found', and you shall be responsible for examining and assessing the Specification of Artwork prior to placing an Order. For more information on the way in which we limit our liability, please refer to Clause 10 'LIMITATION OF LIABILITY'.
- 3.3. To make an enquiry with us on the purchasing or sourcing of any Artwork, we may be contacted through any such marketing channels in Clause 3.1., or by contacting us directly using our contact details given in the 'Definitions' section of these Terms. We make no obligation to respond to your enquiries.

4. CONSULTANCY AGREEMENT

- 4.1. A consultancy agreement shall be formed when you require us to source Artwork not available in stock or on consignment, the basic terms of which are as follows, and which we will finalise in writing upon each appointment.
- 4.2. Prior to engaging us as your consultant to source Artwork, we will confirm your instructions by clarifying, or asking you to clarify in writing, the following details about Artwork you require us to source:
 - a) Budget;
 - b) Size and dimensions;
 - c) Editioned or unique Artwork;
 - d) Quantity;
 - e) Condition;
 - f) Rarity;
 - g) Historical and social significance;
 - h) Provenance;
 - i) Any other information we deem necessary to accurately fulfil your requirements.
- 4.3. For guidance purposes only, we estimate our Consultancy Fees for our consultancy services, which do not constitute a formal quote, based on the general structure below:

Net Sale Price of Artwork	Estimated Consultancy Fees
£0 - 4,000	£500
£4,001 - £6,000	£750
£6,001 - 10,000	£1,000
£10,001 +	10% of the Net Sale Price

- 4.4. A deposit of 25% of the estimated Consultancy Fees is required before our services are engaged. Please note, beyond 14 days from payment or after you have engaged any part of our services, whichever is sooner, your deposit payment shall be non-refundable.
- 4.5. Additional fees may be payable in addition to our estimated Consultancy Fees. Our Consultancy Fees are in addition to any other costs mentioned throughout these Terms, including but not limited to the Artwork and Disbursements.
- 4.6. Our Consultancy Fees, unless mentioned otherwise, will include but is not limited to sourcing Artwork, negotiating with the Seller on your behalf, preparing any necessary documentation, liaising with third parties, arranging the logistics if requested by you, and corresponding with you.
- 4.7. Payment in full must be made before any Artwork is purchased on your behalf.
- 4.8. Together with your agreement to a purchase, we will notify you of any additional conditions of the Seller over and above these Terms, especially with regard to limitations of resale, if applicable, before purchasing Artwork on your behalf. Please note, upon your agreement, you will become bound to such additional Terms of the Seller.
- 4.9. Pursuant to Clause 4.8. and subject to Clauses 4.12 and 4.13, if you try and cancel an Order after we have purchased Artwork, such cancellations cannot be made. You must pay any resulting Consultancy Fees, including packaging, Shipping, and insurance, and you will not be entitled to return the Artwork, or claim a return of any costs whatsoever, including any of our Consultancy Fees.
- 4.10. If you reject any Artwork we have found or acquired for you, and we are not in breach of these Terms, then, subject to the reasonable fulfilment of your specifications and any ancillary Terms made clear by us in writing to relate to these Terms, irrespective of return policies permitting refunds, you will become liable to pay our Consultancy Fees under Clause 4.3 in full.
- 4.11. Clause 4.9 and 4.10. is subject to our discretion and your rights under these Terms, together with your statutory rights in so far as any implied Terms and other Terms that can be excluded do not contravene these Terms.
- 4.12. If you are a consumer based in the UK or if you are a consumer in the EU to the extent the provisions in Clauses 4.12 and Clauses 4.13 continue to apply to EU consumer's in UK law, you may have legal right to cancel a Contract during the period set out in Clause 4.13 and for the reasons set under the Consumer Rights Act 2015 and/or the Consumer Contracts Regulations 2013. This means that if you change your mind or decide for any other reason that you do not want to receive or keep an Artwork during the relevant period, you can notify us of your decision to cancel our Contract and you may receive a refund for the price paid for the Artwork provided that you remain liable to pay our Consultancy Fees. However, this cancellation right does not apply in the case of Artworks commissioned on your behalf, acquired by us on your behalf based on the provision of our consultancy services or modified according to your specification.
- 4.13. Your legal right to cancel a Contract starts from the date on which the Contract between us is formed. Your deadline for cancelling our Contract is the end of 14 days after the day on which you received the Artwork. Your rights when you can end the contract may apply if:
 - a) we have told you about an upcoming change to Artwork or these terms which you do not agree to;
 - b) we have told you about an error in the price or description of the Artwork and you do not wish to proceed;
 - c) there is a risk that supply of the Artwork may be significantly delayed because of events outside our control;

- d) you have just changed your mind about the Artwork if you are within the 14-day cooling-off period
- e) we have suspended supply of the Artwork for technical reasons, or notify you we are going to suspend them for technical reasons; or
- f) you have a legal right to end the Contract because of something we have done wrong.
- 5. ANTI MONEY LAUNDERING**
- 5.1. Further to Clause 2.6 we are legally obliged under anti-money laundering legislation to carry due diligence for any Buyers purchasing any Artwork(s) of which the Total Invoice Amount is €10,000 or more.
- 5.2. As a minimum requirement, we must validate your identity by you providing us originals or certified copies of one of the following documents:
- a) Your passport, or;
- b) Your photo driving licence.
- We also require two of the following documents to provide proof of address:
- c) Title deeds and/or tenancy agreement(s) of the property or properties you reside at, or;
- d) A utility bill from the past 3 months, or;
- e) Driving licence (if not already provided as ID), or;
- f) Your bank statement from the past 3 months, or;
- g) Council tax bill from the past 3 months, or;
- h) 2 of your most recent mortgage statements.
- 5.3. For limited liability partnerships and incorporated entities, we may need to verify ownership, including an original copy of the certificate of incorporation, together with documents from Clause 5.2 a) to h) for at least one director, who is authorised through the certificate of incorporation, and/or details from Companies House or the relevant incorporation authority in your Domain, or to where the Artwork is to be delivered.
- 5.4. Please note, other due diligence may be carried out on you, and we will either carry this out ourselves or use a third party ID verification agent. We will notify you of any such arrangement.
- 6. INVOICING**
- 6.1. Although the price and the Specification of the Artwork may be discussed verbally or in writing prior to the production of an Invoice, unless expressly referred to in the Invoice, any such details do not form part of the Contract for the sale of Artwork.
- 6.2. Pricing, including any other content of Invoices, is valid and must be paid in full within 7 days, subject to our sole discretion and as confirmed by us in writing.
- 6.3. For any payments towards our Consultancy Fees not received within the aforementioned timeframe of Clause 6.2, we will class such payments as late and you will incur an interest charge of 4% per annum above the Bank of England's base rate from time to time, which shall accrue daily until such payments are made in full. You hereby agree to waive your rights of confidentiality in respect of your name, address, and any other details relating to unpaid Invoices for the purposes of debt collection.
- 6.4. We will hold such Artwork in our storage facilities for the aforementioned periods of time in Clause 6.2. Beyond such time, the Invoice will become invalid, and with no written notice from us to the contrary, we reserve the right to change any prices, quantity, and other specifications of the Artwork, including insurance and Shipping costs, or to sell the Artwork to another Buyer.
- 6.5. In pursuance to Clause 6.4., should your Invoice become invalid and we sell the Artwork, we may notify you at our sole discretion prior to selling the Artwork.
- 6.6. In addition to any change in your specifications as to affect the pricing in an Invoice, we reserve the right, at our sole discretion and with immediate effect, to change prices in Invoices prior to and after payment in part or full if the following costs to us change outside of our control:
- a) Foreign exchange fluctuation;
- b) Currency regulation;
- c) Alteration of duties;
- d) Change in delivery dates;
- e) Quantities or other specifications;
- f) Delay or failure by the Buyer to give adequate instructions in relation to any Order.
- 6.7. For purchases made in the United Kingdom, all payments must be made in GBP sterling and sent via wire transfer, BACS or Faster Payments bank transfer.
- 6.8. For purchases made by international Buyers outside the United Kingdom, the Buyer is liable to pay any transfer fees, and payments must be made in the currency stated in the Invoice. Payments not received in the dominated currency stated in the Invoice, or if the reference *CF9165355* is not quoted as the wire reference, may not be allocated to our CurrencyFair client account, and we shall not be liable for the timeliness of the currency exchange or Shipping, nor any costs incurred in returned funds or your additional attempts at payment. You will become liable to settle any such reductions in payments to us as a result of paying Invoices in a currency not dominated in your Invoice.
- 6.9. Further to Clause 6.8., any additional attempts of payment for the same Artwork must bear the reference *CF9165355*.
- 6.10. Shipping of Artwork, as better explained in Clause 7 below, cannot take place prior to payment in full of the Total Invoice Amount.
- 6.11. We will endeavour to provide you with a confirmation of payments received, and receipts will be issued in a timely manner upon your request.
- 6.12. Without prejudice to any of our other rights or remedies throughout these Terms, we shall hold a general and particular lien (a right to retain your property) over any Artwork you have bought but we are yet to despatch or release to you as security for all monies and liabilities of whatever sort due or becoming due to us from you in line with these Terms. The lien may be enforced by sale of any sort, and should we permit you to borrow such property held by us in a lien, you must return it to us immediately upon our request.
- 7. SHIPPING AND INSURANCE**
- 7.1. You, or a nominated and authorised third party, shall be responsible for inspecting the condition of Artwork at any premises the Artwork is held prior to shipment, including our premises or the premises of a third party Seller or Consignor. Any of our responses to your request of our further opinion on the condition of the Artwork shall not relieve you from your duty of inspection.
- 7.2. For the purchase of Artwork stored in our facilities prior to collection or Shipping, we hereby guarantee safe storage and full indemnity for any Artwork damaged, or part thereof, up to any price paid for the damaged Artwork, excluding all other liability for lost profits and other consequential losses whatsoever.
- 7.3. We will confirm with you in your Invoice if any Artwork sold to you through consignment is stored at a third party facility and any resulting costs and liability for risk that may pass to you under section 20 (1) Sale of Goods Act 1979.
- 7.4. Nothing in these Terms entitles you to any 'set-off' whatsoever without our express written permission.
- 7.5. We automatically include, as standard procedure, worldwide cargo and freight insurance through our third party provider for all Artwork sold by us if we arrange the Shipping, unless stated otherwise. The cost of this is added to and detailed in your Invoice at a rate of 1.5% of the cost of the Artwork. Please notify us if you would prefer the Artwork not to be insured during Shipping, or if you already have adequate insurance cover or would prefer to arrange your own insurance cover. Please note, if you prefer not to pay the additional charge for insurance, or you choose to insure the Artwork yourself, we shall not be liable for any damage or loss to the Artwork after Collection.
- 7.6. Further to Clause 7.5., the insurance we offer is limited to a cover of £150,000, and so for Artwork above a cost of £150,000, it shall be your responsibility to source adequate insurance, either through us or a third party. Please also note, the insurance detailed in your Invoice also does not cover any damage or loss caused by acts of terrorism or customs inspections.
- 7.7. If we provide you with insurance through our third party provider, we will not comply with requests to mark down the value of Artwork for customs duty purposes; doing so will invalidate your insurance, and we will not be held liable for damage or loss of any kind in transit following Collection, or any time thereafter.

- 7.8. If we offer to arrange for UK mainland and overseas Shipping, the cost of which will be detailed in your Invoice, unless we agree in writing to include it as complimentary. We may package the Artwork ourselves, as fine art Dealers, or use a third party provider to package and handle Artwork.
- 7.9. Should you choose your own methods of shipment, whether you collect the Artwork in person or use a third party courier as authorised to us in writing, 'risk' under the Sale of Goods Act 1979 shall pass to you, the Buyer, upon collection.
- 7.10. You shall be responsible for complying with any Incoterms and other legislation or regulations governing the importation of the Artwork(s) into the country of destination or Domain and for the payment of any duties or taxes on the Artwork. We do not accept liability for the damage or loss of Artwork confiscated, seized, removed or damaged by customs authorities or other government agencies unless we have been negligent or are in breach of these Terms
- 7.11. Title in the Artwork remains with Lougher Contemporary Ltd, or our Consignor or Seller if we are acting as agent, until we have received payment of the Total Invoice Amount in full. Only at this point will title in the Artwork be transferred to you.
- 7.12. If we have arranged Shipping, we will endeavour to notify you of expected delivery dates, together with any third party Terms you should reasonably be made aware of in relation to Shipping and insurance.
- 7.13. Subject to our sole discretion, we will accommodate your reasonable requests for delayed Shipping and collection for up to 30 days, or as agreed with us in writing. In this time we will hold Artwork in our storage facilities in line with Clause 7.2. Beyond this time, risk of damage under section 20 (1) Sale of Goods Act 1979 will pass to you and you will become liable to pay us any resulting storage and insurance costs.
- 7.14. Further to Clause 7.13., whether or not you have paid any resulting storage and insurance costs, if you continue to fail to make Shipping or collection arrangements, or instruct us to do so beyond a further 5 months from risk passing to you, you hereby grant us a right of sale. We will pay to you any proceeds of sale from the best price readily obtainable, minus any reasonable sale costs, including our Consultancy Fees as set out in Clause 4.3., auction costs, marketing, storage, and insurance, together with any shortfall in the value of the Artwork, subject to condition, since the original Invoice pertaining to the Artwork was issued.
- 8. OTHER OBLIGATIONS OF DEALER**
- 8.1. Unless agreed otherwise in writing (including email), the Dealer hereby agrees to:
- a) Package and/or arrange for packaging, shipment and insurance in a timely manner whilst taking into account your preferences where possible, if requested to do so;
 - b) Comply with the Terms of our privacy policy and process your Order or act as your consultant with the utmost confidentiality, with particular regard for any confidential agreements we agree to for commercial transactions;
 - c) Affect any waiver your obligations throughout these Terms in clear, unequivocal writing;
 - d) Comply with our obligations as a Dealer of fine art under the Resale Right Directive 2001/84/EC (or 'droit de suite') to ensure, that appropriate royalties are paid to an artist, or their heirs, upon a qualifying sale on the secondary market of original Artwork or numbered prints. Any such deductions will be sent to the relevant collection society. The current tariff for the portion of the sales price deducted as royalties is as follows and up to maximum limit of royalties of €12,500 (or the equivalent in any other currency):
 - i. 4% up to €50,000;
 - ii. 3% from €50,000.01 to €200,000;
 - iii. 1% from €200,000.01 to €350,000;
 - iv. 0.5% exceeding €350,000 up to €500,000;
 - v. 0.25% exceeding €500,000.
- 9. OTHER OBLIGATIONS OF BUYER**
- 9.1. The Buyer hereby agrees:
- a) Not to approach a Seller or Consignor to whom we act as agent or otherwise are associated with, if we have directly or indirectly put you in contact with them or otherwise circumvent us without our written consent and a waiver from us or an agreement between us to any such Consultancy Fee entitled by us in relation to the acquisitions of any such Artwork by you;
 - b) Indemnify us of any such Consultancy Fee denied to us by your contravention of subsection a), including any fees as a result of further transactions between you and a Seller or Consignor for a period of five (5) years following your introduction to a Seller or Consignor;
 - c) Communicate clearly with us at all times, including but not limited to the disclosure of accurate delivery addresses and instructions, such as any Incoterms we should reasonably be made aware of;
 - d) Subject to Clause 7.6., to insure Artwork to any extent you see fit, including cover for Shipping;
 - e) To accept full responsibility and comply with all laws, regulations, and any other such Incoterms, pertaining to the Shipping of Artwork;
 - f) Report any substantial damage occurred in transit to the packaging of Artwork before removing packaging within five (5) working days of taking delivery. Beyond such time, subject to subsection k), we shall have no further liability to you for loss of any sort;
 - g) To remove Artwork from all packaging and Shipping containers and to inspect Artwork for any defects and to report such defects to us within five (5) working days. Beyond such time, unless agreed in writing prior to you taking delivery of Artwork and subject to subsection k), we shall have no further liability to you for loss of any sort;
 - h) If acting in an agent or broker capacity, to rigorously inspect Artwork upon delivery, and confirm that the Specification of the Artwork is as described in the Invoice within five (5) working days of a 3rd party taking delivery. Beyond such time, subject to subsection k), we shall have no further liability to you for loss of any sort.
 - i) Not to unreasonably refuse delivery of Artwork. Unless notification and sufficient proof can be provided to support a reasonable refusal of delivery within three (3) working days, such as a *force majeure* event, then your acceptance of delivery upon the date of arrival of the Artwork will be assumed, and subsections f) to h) will take full effect;
 - j) For defects that have not occurred in transit and that are not immediately obvious upon a reasonable inspection, to notify us immediately upon discovery of the defect, subject to subsection m);
 - k) To appoint certified art appraisers to validate authenticity, if brought into question. Please note, any claims against us relating to authenticity must be reported within three (3) years from taking delivery of Artwork. Beyond such time, we shall have no further liability to you;
 - l) To provide suitable evidence of any such damage or inauthenticity, pursuant to subsections f) to k), in the form of clear photographs;
 - m) Excluding subsection k), you must return any Artwork within thirty (30) days of taking delivery. Beyond such time, we shall have no further liabilities to you;
 - n) Not to contact us or purchase Artwork directly or through any of our Sellers or Consignors for any illegal purposes, whatsoever, including fraud or money laundering;
 - o) Not to duplicate, pass off, or copy in any other way, any Artwork whatsoever;
 - p) Indemnify and defend us and our parent and subsidiary companies, affiliates, partners, officers, directors, agents, contractors, licensors, service providers, subcontractors, suppliers, interns and employees, and hold harmless, from any claim or demand, including reasonable legal fees, made by you or any third-party due to or arising out of your breach of these Terms;
 - q) Comply with your obligations under Clause 8.1. d) if you sell on any Artwork to 'art market professionals'. It is your responsibility to determine the corresponding royalties and collecting society, and ensure all other obligations are complied with under Resale Right Directive 2001/84/EC.
 - r) Subject to subsection m), arrange for return Shipping to an address confirmed with us in writing beforehand, including all necessary insurance, at your own expense, if we, nor a Seller or Consignor to whom we act as agent, has contravened anything in these Terms. Please note, subject to Clause 8.1. d), whether or not we are at fault, refunds of any sort will not be issued until we have taken delivery of the Artwork in the condition specified in the Invoice. Any deductions in refunds will be made accordingly for Artwork that has sustained damage, or further damage, since you took delivery of the Artwork. Such deductions will be calculated either by us as fine art Dealers, or a third party expert appointed by us if we deem the assessment of the nature and extent of damage outside our scope of judgement.
- 10. LIMITATION OF LIABILITY**
- 10.1. Further to Clause 3.2, we make no warranty or representation of the Specification of Artwork, including the accuracy of price, images, or other description of the Artwork, until such images and descriptions, including any replacement or additional images, texts, or representations of the Artwork in any way, are confirmed by us in writing and expressly referred to in your Invoice.

- 10.2. We shall not be liable to you for any defect arising in the Artwork through fair wear and tear, wilful damage, or negligence, together with any failure to follow any instructions in the handling and use of Artwork.
- 10.3. Unless purported fraudulently, we shall not be liable to you by way of any representation, implied warranty, or other Terms, whether at common law or under express Terms, for loss of profit or for any indirect, special or consequential loss or damage, costs, expenses or other claims for compensation whatsoever, including that caused by negligence arising out of or in connection with the supply of Artwork (including delay or failure to supply) or use of Artwork or resale by you. Henceforth, our entire liability under or in connection with the Contract shall not exceed the Net Sale Price of the Artwork, other than as expressly provided for in these Terms.
- 10.4. The content of websites and other marketing platforms is for general information purposes only, and as such, is subject to change without notice. We also do not own the rights to such marketing platforms, and therefore, cannot guarantee their availability or that the websites will be free from bugs or viruses, and as such, we exclude our liability to you for any damage or loss caused to you whatsoever in you accessing any such platforms, to include our social media channels.
- 10.5. Subject to clauses relating to Shipping and insurance, risk (under the Sale of Goods Act 1979) of damage to Artwork passes to you upon taking delivery of Artwork. As such, any packaging the Artwork is shipped in shall not be classed as 'archive storage' and it is your responsibility to arrange appropriate storage of Artwork thereafter.
- 10.6. The Buyer hereby accepts that no warranty or representation made by us, including any employees, agents, or subcontractors, as to the investment potential of the Artwork, or its worth to other markets and Buyers. Therefore, you also acknowledge that subsequent valuations and sale of the Artwork may yield less than the price you paid to purchase the Artwork.
- 10.7. Our capacity as a Dealer is made available to you on an 'as is' and 'as available' basis, free of representation, warranties or conditions of any kind, including merchantability, either express or implied, to the contrary.
- 10.8. Whether or not Shipping and insurance is arranged by us or you, we make no guarantees of the timeliness of transit.
- 10.9. Although every effort has been in our Invoices to accurately encapsulate the Contract of sale in conjunction with these Terms, we make no guarantees of the accuracy of the information, and as such, any minor typographical errors are subject to corrected by us in a timely manner without any liability to us, providing such corrections do not unreasonably prejudice you.
- 10.10. Subject to operating with reasonable care, we cannot accept liability for intercepted payments by third Parties, whether these be lawful or unlawful.
- 10.11. Whilst every effort is made to accurately represent Artwork in photographs and texts, such material may not constitute a true representation of the Specification of Artwork, and as such, we cannot accept liability for imprecise representations of the Specification of Artwork.
- 10.12. In pursuance to Clause 8.1. d) you are liable for the payment of any Artist's Resale Royalties.
- 10.13. Nothing in these Terms shall affect either Party's liability for fraudulent misrepresentation, or death or personal injury caused by negligence, fraud, or wilful misconduct by the other Party.
- 10.14. Nothing in these Terms limits the liability of the Dealer under the Consumer Protection Act 1987.
- 10.15. Within the meaning of the Unfair Contract Terms Act 1977, all warranties or other Terms implied by statute or common law, are excluded to the fullest extent permitted by law.
- 10.16. The Dealer shall not be liable to the Buyer for *force majeure* events, including but not limited to, inter alia:
- a) Terrorism, civil commotion, riot, invasion, war threat or preparation for war;
 - b) Fire, explosion, storm, flood, earthquake, subsidence, epidemic, bad weather or other natural physical disaster;
 - c) Acts, restrictions, regulations, bye-laws, prohibitions or measures of any kind on the part of any governmental, parliamentary or local authority;
 - d) Import or export regulations or embargoes;
 - e) Strikes, lock-outs, or other industrial actions or trade disputes (whether involving employees of the Dealer or of a third party).
- 10.17. In offering an Artwork, the Dealer does not warrant that the Artwork cannot be sourced at a lower cost from other sellers operating in the art market, whether trade or private sellers, including other galleries or auction houses.
- 11. GENERAL**
- 11.1. These Terms of business form the entire agreement between you and Lougher Contemporary Ltd, and supersedes any prior agreement, understanding or arrangement between you and Lougher Contemporary Ltd, whether oral or in writing.
- 11.2. These Terms of business are meant to be read as a whole document. Each Clause heading and subheading is merely there for guidance and shall not affect the interpretation of these Terms.
- 11.3. Anything relating to the following clauses and subsections shall survive the termination or expiration of these Terms:
- a) Clause 9.1 a)
 - b) Limitation of liability
 - c) Governing law
 - d) Your liabilities and obligations under *Resale Right Directive 2001/84/EC*
 - e) Third party rights
- 11.4. We reserve the right to transfer and/or assign our rights and obligations under these Terms by way of novation through any future merger or acquisition, or anything else. You hereby agree to any future novation providing it will in no way affect your rights and obligations under these Terms.
- 11.5. Other than those expressly mentioned in these Terms, including the *Resale Right Directive 2001/84/EC*, no third party rights, authority, benefits, or enforceability, including any implied by the Contracts (Rights of Third Parties) Act 1999, are created by these Terms.
- 11.6. If any part of these Terms remains to be enforced, this does not preclude any Party from enforcing that part at a later date and should never be interpreted as a waiver in any way or to mean that any other part of these Terms will not be enforced.
- 11.7. If any part of these Terms is found to be unlawful, illegal, invalid or unenforceable, these Terms will be read to the severance of those parts, unless doing so would substantially frustrate the business purpose of these Terms and create liabilities detrimental to Lougher Contemporary Ltd. In which case, these Terms of business, in their entirety but subject to Clause 11.3., shall be terminated without giving any rise to further liabilities.
- 11.8. Any waiver, side agreement, or annexation to these Terms must be affected and agreed to in writing by the Parties to clearly relate to these Terms.
- 11.9. These Terms and unless otherwise agreed in writing with you our Contract are governed by English law and you agree to submit to the exclusive jurisdiction of the courts of England and Wales.