



## FEIN COLLECTIONS ARTIST TERMS AND CONDITIONS

24 December 2022

### 1. INTRODUCTION

- 1.1 FEIN Collections ("**FEIN**," "**we**" or "**our**") provides a gallery service for displaying, marketing and selling (the "**Service**") your original works of art ("**Artwork**"). Please read carefully the following artist terms and conditions ("**Artist Terms**"). By providing your Artwork to FEIN for sale in our gallery, you are agreeing to these Artist Terms and understand that it is legally binding for all artists.
- 1.2 If you accept or agree to these Artist Terms on behalf of a company or other legal entity, you represent and warrant that you have the authority to bind that company or other legal entity to these Artist Terms and, in such event, "you" and "your" will refer and apply to that company or other legal entity.

### 2. CHANGES TO THE TERMS

- 2.1 FEIN reserves the right, at its sole discretion, to modify these Artist Terms, at any time and without prior notice. If we modify these Artist Terms, we will provide you with notice of the modification.
- 2.2 If at any time you do not agree to the Artist Terms, please do not submit your Artwork to us. Your continued use of the Service after any changes to the Artist Terms will constitute your acceptance of the changes.

### 3. FEIN'S AUTHORITY

- 3.1 FEIN will represent your Artwork as Principal of the artistic enterprise but is not formally or legally an agent or fiduciary for any artist for any purpose, though this may change on agreement between us. FEIN's role is expressly limited to displaying and making available the sale of your Artwork in our artistic enterprise and providing the ancillary and related services to finalise any sale.
- 3.2 You and FEIN are independent contractors, and no agency, partnership, joint venture, employee-employer or franchiser-franchisee relationship is intended or created by these Artist Terms.

### 4. SIGNING UP YOUR ARTWORK AND EXCLUSIVITY

- 4.1 In order for us to sell your Artwork, you will be required to provide certain information, as provided for in the invitation letter. Please submit up to 10 pieces of Artwork initially that you have created and that you desire to sell through the artistic enterprise. This number may



subsequently be increased. You may not submit for sale any Artwork created by another artist.

- 4.2 In order for your Artwork to be sold in our artistic enterprise, you must provide FEIN with all the information requested and you must comply with any other FEIN requirements as notified to you.
- 4.3 Your use of our Service to sell your Artwork through our artistic enterprise commences on the first date that your Artwork is placed for sale. For a period of twelve (12) months commencing from the date each piece of Artwork is placed for sale (the “**Exclusivity Period**”), you grant to FEIN and FEIN hereby accepts the exclusive right to sell that Artwork.
- 4.4 You agree that during the Exclusivity Period, you are prohibited from selling any Artwork which is placed for sale in our artistic enterprise, whether online or in a physical gallery, whether by your own means or by the use of a third party. On expiry of the Exclusivity period, all rights granted to FEIN in section 4.3 above in respect of your Artwork shall expire.
- 4.5 Without prejudice to the Exclusivity Period, you always retain the right to ask us remove your Artwork(s) from sale in the enterprise. If you want to remove your Artwork from the enterprise, please contact us at [danielle@feincollections.com](mailto:danielle@feincollections.com), provided however that you agree that all pending and in-progress orders accepted by FEIN for any such Artwork shall be fulfilled, including where any negotiations or sale discussions have already been commenced.

## **5. PRICING, PAYMENT AND SHIPPING**

### Pricing

- 5.1 We will discuss with you how much each Artwork should be sold for. This price must be inclusive of VAT (if applicable), your delivery and insurance costs and our commission.
- 5.2 If we sell your Artwork in our artistic enterprise, you will receive a payment for the sale of your Artwork. You are eligible to receive a payment of 40% and FEIN will receive a 60% commission on the final sale price.
- 5.3 You agree to remain responsible for any and all taxes including VAT that may be associated with the sale of your Artwork.

### Payment

- 5.4 FEIN and/or its third party service providers will be responsible for collecting payment and shipping information from the customer and for processing payment for such purchases in the artistic enterprise.
- 5.5 The customer will pay us for your Artwork. When payment is received, we will notify you of the details of the purchase by email or phone. Once we have received confirmation from the customer that the Artwork has arrived safely, you will be paid within 28 days by bank transfer.



### Shipping

- 5.6 You are responsible for ensuring that you have sufficient insurance cover when you send the Artwork to FEIN. We will not accept claims for reimbursement in the event of damage to Artworks in these circumstances.
- 5.7 You will ensure that the Artwork is securely packaged, labelled and adequately insured for safe delivery to FEIN.

### Certificate of Authenticity

- 5.8 All Artwork must be accompanied by your certificate of authenticity and FEIN will affix its own authenticity stamp.

## **6. LICENSE AND OWNERSHIP OF ARTWORK**

- 6.1 All copyright in the Artwork remain with you at all times, even after ownership of the Artwork is transferred to the customer.
- 6.2 You retain the moral right in the Artwork as well as the rights regarding its reproduction, however accept and undertake that for the Exclusivity Period (as defined in clause 4.3) you will not make replicas, prints or copies of the Artwork, create an NFT, digital work or similar product or copy of the Artwork without FEIN's express prior written consent .
- 6.3 You hereby grant FEIN a worldwide, transferable, non-exclusive, right and license, with a right to sublicense, to: (i) use, reproduce, distribute, publicly perform and publicly display copies of the Artwork; and (ii) access, view, use, crop, resize, copy, distribute, license, publicly display, publicly perform, transmit and broadcast copies of the Artwork in any form, medium or technology now known or later developed for the purpose of promoting FEIN or our services. You acknowledge and agree that the foregoing license rights are granted on a royalty-free basis and that your sole compensation for the grant of such license rights, if any, will be in the form of the commission (as set out in section 5.1), which is payable only upon the sale of your Artwork in our artistic enterprise.
- 6.4 We may appoint one or more third party subcontractors, who may exercise the license rights above for the purpose of enabling FEIN to process and fulfill orders for Artwork.

## **7. WARRANTIES**



- 7.1 You acknowledge and agree that you are solely responsible for all Artwork that we make available for sale in our gallery. Accordingly, you represent and warrant that: (i) as to Artwork that we make available for sale in our gallery, you are the creator of all such Artwork and you are the sole and exclusive owner of all such Artwork; and (ii) neither the Artwork that we make available for sale in our gallery nor FEIN's use and exploitation thereof as contemplated under these Artist Terms will infringe, misappropriate or violate a third party's patent, copyright, trademark, trade secret, moral rights or other intellectual property rights, or rights of publicity or privacy, intellectual property rights or other third party rights, or result in the violation of any applicable law or regulation.
- 7.2 We provide our service on an "as-is" basis without warranty of any kind including the implied warranties of satisfactory quality and fitness for a particular purpose. However, we will insure your Artwork while it is at our artistic enterprise premises against loss, theft and damage.

## **8. INDEMNITY AND LIMITATION OF LIABILITY**

- 8.1 You agree to defend, indemnify, and hold FEIN, its officers, directors, employees and agents, harmless from and against any claims, liabilities, damages, losses, and expenses, including, without limitation, reasonable legal fees, arising out of or in any way connected with your use of our services, your violation of these Artist Terms, or your violation of any law or the rights of a third party.
- 8.2 In no event shall FEIN, and (as applicable) FEIN's subsidiaries, officers, directors, employees or our suppliers be liable for lost profits or any special, incidental or consequential damages arising out of or in connection with our services or these Artist Terms (however arising, including negligence). Some jurisdictions do not allow the exclusion or limitation of incidental or consequential damages, so the limitation or exclusion may not apply to you.
- 8.3 Except in relation to loss of or damage to your Artwork covered by our insurance taken out pursuant to clause 7.2, FEIN's liability, and (as applicable) the liability of FEIN's subsidiaries, officers, directors, employees, and suppliers, to you or any third parties in any circumstance is limited to the greater of (a) the total payments made to you by FEIN for the sale of your Artwork during the three (3) month period preceding the date a claim for liability arises under these Artist Terms; or (b) £10,000.

## **9. TERMINATION**

- 9.1 If you breach any of these Artist Terms, FEIN will have the right to suspend your use of our Service or terminate these Artist Terms, at its sole discretion and without prior notice to you. FEIN reserves the right to revoke your use of the Services, at any time, with or without cause. In the event FEIN terminates these Artist Terms for your breach, you will remain liable for any amounts due hereunder.



- 9.2 You have the right to terminate the Services by serving written notice if, at any time, you reasonably consider that FEIN is acting unconscionably and have provided written notice to FEIN of this concern and you and FEIN have been unable to agree how to address this concern.

## **10. NOTICES**

- 10.1 Any notices or other communications permitted to required hereunder, including those regarding modifications to these Artist Terms, will be in writing and given: (i) by FEIN via email (in each case to the address that you provide) or (ii) by posting to the Site. For notices made by e-mail, the date of receipt will be deemed the date on which such notice is transmitted.

## **11. GOVERNING LAW AND JURISDICTION**

- 11.1 These Artist Terms, their subject matter and their formation (and any non-contractual disputes or claims) are governed by English law. We both agree to the exclusive jurisdiction of the courts of England and Wales.

## **12. GENERAL**

- 12.1 You agree that the business relationship between the customer and FEIN is entirely owned by FEIN. You will not approach the customer directly or correspond with the customer in any way, except with express written authorisation from us. You will not sell directly to the customer or allow a direct relationship to develop between you and the customer that could be detrimental to FEIN.
- 12.2 If any provision of these Artist Terms is held unenforceable, then such provision will be modified to reflect the parties' intention. All remaining provisions of these Artist Terms shall remain in full force and effect.
- 12.3 You may not assign the Artist Terms or any of your rights or obligations under the Artist Terms without our express written consent.
- 12.4 You will have no right to meet the purchaser of the Artwork or potential purchaser without FEIN's prior written consent.