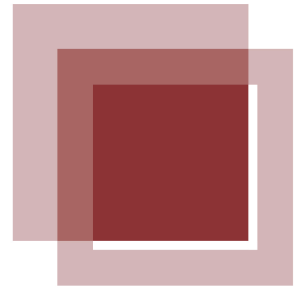


# APPENDIX A: Risks, Terms & Conditions

Last updated: 12-October-2017

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**WIDERHALL**  
FINE PHOTOGRAPHIC PRINTING & FRAMES

## **PRODUCTION & PAYMENT:**

- Your engagement of Widerhall via email, fax or in writing is your legal acceptance to the price of the items listed on the quotation and your acknowledgment of the risks, terms and conditions according to the information below, which indemnifies Widerhall Limited and its suppliers.
- I agree to payment of all work including any delivery and installation charges associated with the above quotation.
- I acknowledge that any damage, including splitting, scratches, dings and dents to works of art once they have left the premises of Widerhall Limited is in no way the responsibility of Widerhall or its employees. Repairs or new production will be subject to normal fees and charges. Clients are welcome to make an appointment to check finished works at our premises.
- Completed works not collected within 10-working days of completion will be subject to insurance and storage charges of HKD\$100. per day, per item.
- Payment must be remitted upon collection or delivery of finished works. Widerhall reserves the right to withhold delivery until payment is remitted.
- Orders over HKD\$20,000. require 50% deposit for materials, unless otherwise agreed in writing.

## **STORAGE RECOMMENDATIONS:**

- As with any work of fine art, handle with care, whilst wearing gloves.
- Find an even, flat surface for storage (not sitting on its edge upright). Hang on even walls. Do not keep prints in tubes or rolled.
- Ideally keep temperature range between 60-90F / 15.5-32C to avoid Aluminium expansion and contraction or hardening/yellowing of acrylic.
- Only use soft cotton or microfiber cloth and room-temp water for cleaning acrylic.
- Avoid direct sunlight, spot lights, smoke and pollution which can fade photographs or yellow acrylic.
- Always check with shipper & crater for temperature conditions during movement of work over long distances.

## **COPYRIGHT / ADJUSTED FILES:**

- You are the holder or fully-authorized agent of copyright permission to print or frame all files given to Widerhall Limited or you are the original creator of the files and indemnify Widerhall from all copyright infringement.
- We agree that the you, as the copyright holder owns all rights to the original files and you may retrieve original un-adjusted files at any time without a fee, barring costs. You agree that Widerhall owns all adjustments made to files for proofing, testing, printing or otherwise. Should you want to retrieve any adjusted file, you may do so at a cost of HKD\$2,000. per file.

## **RISKS:**

We discourage face mounting artwork that cannot be replaced or reprinted and as such acknowledge that we have explained the risks to you and you accept them accordingly.

## DEFINITIONS

In these Terms and Conditions:

"including" means including but not limited to

"Order" means an request for any of Widerhall's available products or services placed by you with us by email, fax, letter or any other means of communication digital or otherwise

"our", "us" or "we" means [Widerhall Limited], its directors, agent and employees and any successors

"Product" means the photographic, print or mounted product or similar subject to an Order produced by us

"you" or "your" means you and your its directors, agents and employees and any successors

## Process Risks

Face mounting involves a combination of chemical, mechanical and handmade processes and accordingly we give no warranties in respect of any defects, failures, errors or deficiency of works, services or materials, which may arise where you have provided printed images, artworks or other materials (including any photographic papers or other printing mediums) to us.

Whilst we will always endeavor to complete your Order to a high standard you agree and acknowledge that where photographs, images and other raw materials (including photographic papers and other printing mediums) used in making the Product are provided to us by you or our or your third party suppliers we are not capable of controlling the precise chemical, mechanical and other variables that will take place during the face mounting process and accordingly you acknowledge that such photographs, images or other materials may be irreversibly damaged or even destroyed as a result of the chemical, mechanical, handmade and/or other processes involved.

**We discourage face mounting artwork that cannot be replaced or reprinted and as such acknowledge that we have explained the risks to you and you accept them accordingly.**

Whilst we are confident that the face mounting process that we use is of the highest quality due to the nature of the processes involved we do not give any guarantee as to the longevity of the Product.

## Third Party Materials

Where you supply any materials including electronic files to us or you direct us to use materials provided by a third party for use in the Order (the "Materials") you represent and warrant to us that (i) the Materials are fit for purpose and accordingly we will not be required to investigate the fitness of such materials for the Order; (ii) you will not use the Service for any fraudulent or illegal purpose, and that none of the Materials could infringe any rights of publicity, privacy or copyright without the approval and consent of the owner of those rights; (iii) the Materials are not obscene, pornographic, indecent, defamatory, offensive, abusive, threatening, or otherwise inappropriate and harmful to children in any way, or could give rise to any civil or criminal liability under applicable law; and (iv) all electronic files delivered to us are free of viruses, or any contaminating or destructive codes, such as worms or Trojan horses. Where any Materials are not fit for purpose you agree that we shall not be liable for any Loss incurred as a result of such failure.

## Application

By placing an Order with us you are deemed to have read and accepted these Terms and Conditions and agree to comply with them and be bound by their terms and any amendments and revisions. These Terms and Conditions will also apply to all subsequent Orders unless we otherwise agree with you in writing.

## Quotations and Specifications

Any written or oral quotation provided to you is valid for 45 calendar days only following which it will automatically be withdrawn.

Once you have placed an Order with us a binding contract will be made between you and us and you will not be able to revoke such Order without our prior consent. Where necessary we will confirm any Order to you in writing and you will be required to provide such specifications, designs, drawings and other documents as we may reasonably require to enable us to complete the Order and accept the terms of any Order before we are required to commence work, in each case in writing unless otherwise agreed with us.

If there are any errors or omissions in the information provided to us in connection with an Order (including but not limited to any specifications, drawings, calculations or particulars supplied by you and regardless whether or not we have accepted an Order) you will be responsible for any loss, cost, damage, claim or expense (together any "Loss") incurred by us as result of such errors and omissions and accordingly we shall not be liable to you for any Loss incurred by you.

## Payment Terms

Subject to the paragraph below, you will pay the agreed price to us on the date agreed between you and us, and failing which on collection or delivery of the goods unless otherwise agreed between us. You agree that we shall not be required to deliver the goods to you or deliver any property you have provided to us in connection with an Order unless and until we have received payment from you in full in respect of all Orders in an manner acceptable to us.

Where we, acting reasonably, believe that it is necessary to amend or otherwise alter an Order to ensure a satisfactory standard of work for you, you agree that we shall be entitled to change any specifications, materials, designs and drawings provided to us to achieve such standard and accordingly you agree that we shall be entitled to charge (including demanding a larger deposit from you) more for our services where we incur increased costs as a result of such change.

Where we have requested a deposit from you, you agree that we are entitled to apply such deposit against any amount you owe us from time to time under all Orders and that until such time as we apply the deposit in this way no interest will accrue on any deposit.

## Delivery and other Risks

The Product shall be deemed to be delivered to you at the moment we hand them to you or any messenger, courier service, postal service or other delivery agent (together "Delivery Agents") at our office or other place as separately agreed between you and us and all risks associated with the Product shall pass to you at the same time.

All Delivery Agents shall be your agents and accordingly notwithstanding that we may have procured such Delivery Agents on your behalf they shall be responsible to you and not us.

You and your Delivery Agents are required to inspect the Product at the time of collection and once you or they accept delivery you waive any right to assert that the Product is defective in any way.

Due to the nature of the processes involved in producing the Product and other matters, any delivery dates quoted by us for delivery and completion of Orders are estimates only and you agree that time shall not be the essence of these Terms and Conditions for such dates. Whilst we will always endeavor to complete Orders in accordance with the stated delivery times we shall not be liable for any Loss you may suffer (including but not limited to any consequential losses) as a result of any delay and you shall not be excused from performance of your obligations under these Terms and Conditions as a result of any delay.

We will not be held responsible for any delay or failure to comply with our obligations under these Terms and Conditions if the delay or failure arises from any cause which is beyond our reasonable control.

## Collection

If you fail to collect any Order or other property you have deposited with us for more than 10 calendar days after completion of any Order we shall be entitled to charge a storage fee to you as determined by us.

Where we store any Product for you and subject to the paragraph below, you will be deemed to be the owner of the Product for all purposes and be responsible to pay all storage, redelivery, insurance and other costs and expenses that we may incur in connection with such storage.

Where any Product or other property remains uncollected for a period of 90 calendar days or more after completion of any Product and you have

failed to pay for such Order in full, you agree that we may dispose of or otherwise use for our own purposes such Order in any manner we think fit.

#### Confidentiality

You acknowledge and agree that the face mounting process (the "Process") used by us is confidential and proprietary and you agree not to disclose details of the Process to any other persons without our prior written consent.

You agree that all right, title and interest in and relating to the Process and any and all related copyright, patent, trademark, service mark, proprietary property, trade secrets and exclusive works are and shall remain our exclusive property.

You agree that for marketing purposes we may disclose details of our relationship with you and any Products completed for you on our website and/or in other marketing materials without your consent.

#### Defects, Liability and Indemnity

You agree to fully indemnify and hold us harmless from and against all damages, losses, expenses and costs, including reasonable attorneys' fees, resulting from your breach of any of these Terms and Conditions, or any circumstances related to your negligence or wrongful conduct when using the Service.

Unless we have been found to be grossly negligent in the performance of our obligations to you under these Terms and Conditions, notwithstanding any other term of these Terms and Conditions we shall not be liable for any Loss (including but not limited to any consequential loss) incurred by you as a result any breach of any express or implied warranty or term or condition of these Terms and Conditions by us or any negligence, breach of statutory duty on our part or in any other way out of or in connection with the performance or purported performance of or failure to perform any contract or agreement under these Terms and Conditions.

Where you establish that any Product has not been delivered, has been delivered damaged or does not comply with its description, we shall at our discretion, replace with similar goods any Product which do not comply with its description, allow you credit for your invoice value or repair any damaged artwork.

Without limiting the foregoing, in no circumstances shall our liability to you under these Terms and Conditions in respect of an Order exceed the invoice value for such Order.

Whilst we maintain insurance in respect of our business and premises we give no representation or warranty as to the adequacy or availability of such insurance to protect you. You are therefore advised to maintain appropriate insurance of any artworks or materials provided to us in connection with an Order.

#### Amendments

We may revise these Terms and Conditions and/or introduce additional terms and conditions at any time and from time to time and such revision and/or addition shall become binding on you from the earlier of the day that falls 10 calendar days after we have given you notice of the revision and/or alteration and the date on which you place a further Order with us.

#### Copyright

You agree that you possess all copyright or permissions for all images or files to be printed or framed. You agree that Widerhall is in no way in violation of copyright by following your instructions.

We agree that if you are the creator of any file that you own and retain rights to the original file only and that you may retrieve it at any time free of charge excepting any costs including time, shipment or hardware necessary to send said files.

You agree and understand that any and all adjustments made to a file for the purposes of proofing, testing, printing, framing or otherwise are the property of Widerhall. These adjusted files may be purchased at a fixed price of HKD\$2,000. per file.

We agree that at no time shall Widerhall knowingly make any prints, proofs or copies of your files unless contracted to do so by you or your authorized agent, gallery or representative by fax, email, text, sms or other written format, digital means included.

#### Miscellaneous

We reserve the right to charge interest on a daily basis at 2% above our cost of funds on any overdue amount you owe us under these Terms and Conditions and such interest shall accrue daily and be calculated on the basis of actual number of days elapsed and a 30-day month.

You understand that while we take serious measures in preventing any security issues, we do not guarantee that any electronic files of yours that we have been required to access to produce the Product will be free of viruses, or any contaminating or destructive codes, such as worms or Trojan horses.

Where you have provided us with your terms and conditions of business you agree that in the event of any conflict or discrepancy with these Terms and Conditions, these Terms and Conditions shall prevail for all purposes unless we otherwise agree in writing.

#### Privacy Policy

In providing the Service to you we will require your name, contact numbers, a valid email address and relevant billing and delivery information as well as your artwork and digital images.

Your personal data, including the digital pictures you voluntarily provide, will be used only for the purpose for which you have provided them, and they will not be shared or disclosed to third parties without your consent. Access to the data is limited to our staff only. We may from time to time use this information to send you contents, announce new products and offers that we think might be relevant to you. You may decline these mailings, or choose to opt out at any time.

We however, reserve the right to disclose any relevant personal data in our sole discretion, with or without a warrant or court order from any law enforcement agencies, if we believe that the disclosure is necessary to protect ourselves, or our business in certain situations, where you: (i) are in breach of the Terms and Conditions; (ii) have engaged, or are alleged to have engaged, in any activity purporting to infringe upon the intellectual property rights of another; or (iii) have engaged, or are alleged to have engaged, in any other illegal conduct or activity. We also reserves the right to report any suspected illegal activity to such entities for investigation and prosecution.

To ensure your continued protection, we will periodically review this Privacy Policy, and reserve the right, at our sole discretion, to update or make modifications to the said policy from time to time.

#### Governing Law

These Terms and Conditions and the agreements created hereunder shall be governed by the laws of Hong Kong SAR and the courts of Hong Kong shall have exclusive jurisdiction in all matters regarding them except that we may enforce these Terms and Conditions in the courts of any competent jurisdiction.