



## STANDARD TERMS AND CONDITIONS

### INTEGRATED FINE ARTS SOLUTIONS (HONG KONG) LTD

#### AND ALL GROUP COMPANIES

The following Standard Terms and Conditions contain the terms and conditions applicable to the general consulting services, freight

-forwarding, transportation, storage and handling services, and other services in relation to artworks, antiques, exhibition goods and related goods, or any other high value collectables provided by the Company to the Customer and as more particularly set out in the Quotations (the "**Services**").

All Services provided by the Company to the Customer will be subject to the following Standard Terms and Conditions which are deemed to be incorporated into any agreement or arrangement between the Company and the Customer and which are also deemed to prevail over any conditions of contract of the Customer unless otherwise expressly agreed in writing between the Company and Customer. The Company reserves the right from time to time to modify, amend or vary these Standard Terms and Conditions in writing.

In the event of a conflict or inconsistency between the provision in these Standard Terms and Conditions and the provisions in a Quotation, Order, Accepted Order and these Standard Terms and Conditions the provisions in these Standard Terms and Conditions shall prevail.

#### 1.0 Definitions

In these Standard Terms and Conditions, the following words and expressions shall have the following meanings unless the context otherwise requires:-

- 1.1 "**Agreement**" shall mean the Quotation, an Order and Accepted Order, as amended from time to time.
- 1.2 "**Artworks**" means artworks, antiques, exhibition goods and related goods, or any other high value collectables supplied by or on behalf of the Customer to the Company and as more particularly set out in an Order.
- 1.3 "**Business Days**" means a day on which banks are generally open for business in Hong Kong or a relevant place of business, except a Saturday, a Sunday, or a day on which a tropical cyclone warning signal no. 8 or above or a "black" rainstorm warning signal is hoisted in Hong Kong during normal working hours;
- 1.4 "**Company**" means Integrated Fine Arts Solutions (Hong Kong) Ltd.
- 1.5 "**Companies Ordinance**" means the Companies Ordinance, Chapter 622 of the Laws of Hong Kong.
- 1.6 "**Confidential Information**" means any and all manuals, procedures, documents, materials and/or information of a Party hereto that is not generally known to the public, whether of a business or other nature (including, without limitation, trade secrets, know-how and information relating to the customers, business plans, marketing activities, finances and other business affairs of such party) whether in written, oral, electronic and/or other forms and that has been identified as being proprietary and/or confidential or that by the nature of the circumstances surrounding the disclosure or receipt should reasonably be construed as proprietary or confidential;
- 1.7 "**Customer**" refers to the instructing party, consignee or/and their servant or/and agent accepting the Quotation and/or issuing an Order to the Company
- 1.8 "**Group**" refers to the Company and its Subsidiaries and "**Group Company**" means any of them.
- 1.9 "**Invoice**" refers to the Company's written or electronic invoice form that lists the Services, price(s) for the Services which Customer shall pay to Company.
- 1.10 "**Party**" refers to the Company or the Customer; "**Parties**" refers to the Company and the Customer.
- 1.11 "**Quotation**" refers to the Company's written or electronic form that lists the Services and current prices of the Services to be provided to the Customer by the Company. The Quotation may be altered at any time by the



Company by notice in writing.

1.12 **"Subsidiary"** shall have the same meaning in this Agreement as its definition in the Companies Ordinance.

## 2.0 Coverage

- 2.1 These Standard Terms and Conditions shall cover all Services provided by a Group Company to the Customer in respect of the handling of Artworks (including freight- forwarding, shipping, storage or other art handling services, the de/installation of the Artworks, the packaging, loading, stowing, transporting, unloading and storage of the Artworks or the procurement of transportation- and property insurance in respect of the Artworks).
- 2.2 The Customer shall ensure that its contracting partner(s) (including the consignee or owner of the Artworks) is made aware of and subject to these Standard Terms and Conditions.

## 3.0 Information about Artworks

- 3.1 The Customer may upon receipt of a Quotation, request that the Company provide Services to the Customer from time to time by providing the Company a notice in writing specifying the addressees, number(s), amount(s), type, kind and content, size(s), weight, characteristics and the actual value of the Artworks as well as information about the point of delivery (such notice in writing to be referred to as an **"Order"**).
- 3.2 The Customer warrants and shall be responsible for ensuring that all particulars, descriptions, nature and materials, values and other information as referred to in Clause 3.3 below in an Order (the **"Information"**) is true, complete and accurate and the Information should be provided in such format as the Company may reasonably request to enable the Company to fulfill the Order. Any false or inaccurate Information will be imputed to the Customer.
- 3.3 The Customer shall keep the Company fully informed of any particular risk relating to the Artworks, including their possible deterioration or damage or their dangerous or special nature or likelihood to contaminate or otherwise affect other Artworks, property or persons. The Customer acknowledges that the Company relies on this Information to assess the suitability and the way of transportation of the Artworks and to determine its acceptance of the Order.
- 3.4 The Company has the right to inspect the Artworks without prior notice to the Customer. If it appears to the Company that there will be risks that any part of the Artworks cannot safely or properly be transited or transported further, of such risks not being known or disclosed to the Company prior to its acceptance of the Order or contained in the Information, whether or not incurring any additional expenses or taking any additional or specific measures in order to fulfill the Order, the Company may terminate the Services, take any measures, incur any reasonable expense to be borne by the Customer to continue the Services in its sole discretion without compensation to the Customer.
- 3.5 The Customer warrants that he is either the owner or the authorised agent of the owner of the Artworks, and that he is authorised to accept and is accepting these Standard Terms and Conditions not only for himself but also as authorised agent.
- 3.6 Unless the Company has agreed in writing to pack the Artworks, the Customer warrants that the Artworks are properly and sufficiently prepared, packed, stowed, labeled and/or marked, and that the preparation, packing, stowage, labeling and marking are appropriate to any operations or transactions affecting the Artworks and in particular to withstand the ordinary risks of handling, storage and carriage.
- 3.7 The Customer warrants that where the Company receives the Artworks from the Customer already stowed in or on a container or any other device constructed for the carriage of goods (a **"Unit"**):
- (a) the Unit is in good condition and is suitable for the carriage of the Artworks to the intended destination; and
  - (b) the Artworks are suitable for the carriage and other handling in or on the Unit and have been properly and competently packed or loaded in or on the Unit.
- 3.8 The Customer warrants that it has complied with all laws and regulations relating to the nature, condition, packing, labeling, storage and carriage of the Artworks.



#### **4.0 Accepted Orders and Delivery Time**

- 4.1** All Orders shall be subject to the Company's acceptance and each Order accepted by the Company shall constitute a separate binding contract (an "**Accepted Order**"). For the avoidance of doubt, the Company reserves the right to decline to accept any Order received from or through a Customer at its absolute discretion.
- 4.2** Delivery times and date shall be set out in the Accepted Order which shall also state the latest time of delivery. The Company shall use all reasonable endeavors to meet the delivery date and time, but should delivery not occur as requested, the Company shall have no liability to the Customer if, notwithstanding such endeavors, there is any delay in delivery.

#### **5.0 Insurance and Liability**

- 5.1** The Company may select and engage sub- contractors to fulfill any of its obligations under an Accepted Order and assign such personnel or personnel of a third party as it deems appropriate for the purposes of providing the Services ("**Third Party Provider**").
- 5.2** Where the Company enters into a contract on behalf of the Customer in its own name with any Third Party Provider arising from or incidental to the Services, the Company does so without entering into or purporting to enter into any contract as a principal with the Customer for the carriage, storage, transportation, loading, unloading, packing or other handling of the Artworks.
- 5.3** In respect of the Third Party Provider's acts, errors, omissions, or breaches of these Standard Terms and Conditions or damage to the Artworks, the Company's liability shall be confined to the amount recoverable by the Company from the Third Party Provider.
- 5.4** The Customer shall be responsible for all insurance coverage for the Artworks from its delivery to the Company and for the entire period of the Services. The Customer acknowledges that the Company's own insurance policy does not cover loss and damages to the Artworks in Services, save for limited circumstances. The Customer accepts that the Company's liability to the Customer arising from or out of any breach of its obligations under these Standard Terms and Conditions shall be limited to the direct and actual losses to the Artworks and shall be limited to the fees or charges received by the Company for the Services in relation to the Artworks or confined to the amount recoverable by the Company's insurer, if applicable and whichever is the higher. The Company shall in no event be liable for any claims for damages, expenses, indirect or consequential losses, loss of profit, loss of business opportunity, loss of goodwill, loss of customer and loss of reputation against the Company.
- 5.5** Where the Customer instructs the Company to arrange for the Artworks insured by a Third Party Provider, the Company will use its best endeavours to arrange for the same as requested and set out in an Order. In this case, if the Customer has a potential claim for the Artworks, it shall submit any claim for loss to the Third Party Provider and shall have no claim against the Company in respect of the Artworks being forwarded as part of the Services, whether directly or indirectly, or by way of subrogation or otherwise.
- 5.6** The Company's liability to the Customer for death or injury resulting from its own negligence or that of its employees or agents shall not be limited or excluded by any of the terms of these Standard Terms and Conditions.
- 5.7** Subject to applicable laws, the Company's liability is strictly limited to direct loss only for any damage to the Artworks caused by its failure to exercise such care as a reasonable owner of such similar Artworks would exercise, subject to the limits set out in Clause 7.0.

#### **6.0 Exclusion of liability**

The Company shall not in any event or circumstances whatsoever be liable to the Customer (whether based on an action or claim in contract, negligence, tort or otherwise) for any of the following:

- (a) any loss, or damage or expenses arising from or as a result of any events, omissions or accidents beyond the reasonable control of the Company to perform its obligations under the Accepted Order including, but not limited to, act of God, seizure under any government action or legal process, outbreak of war, invasion or act of foreign enemy, war-like or hostile actions, war threat or preparation for war, rebellion, revolution, hostilities, riots, civil commotion or disturbances, invasion, strikes, acts of terrorism, lock-outs or other industrial action, storm, fire,



- flood, earthquake, subsidence, explosion, epidemic, or other natural physical disaster, theft, vandalism or impossibility of the use of railways, shipping, aircraft, motor transport or other means of public or private transport or political interference with the normal operations of the Company;
- (b) any loss or damage caused by or resulting from attack by insects, vermin, natural wear and tear, mechanical breakdown, gradual deterioration or depreciation, corrosion rust, dampness, freezing, extremes of temperature, latent or inherent defect;
  - (c) any indirect or consequential, special or exemplary costs, claims, expenses, loss or damages of any kind, even if informed of the possibility of such costs, claims, expenses, loss and damage;
  - (d) any losses, damages or expense caused by or attributable in whole or in part to, or arising from any act or omission, default of the Customer or any person acting on Customer's behalf;
  - (e) the Customer not taking or accepting delivery or/and failure to claim the Artworks from the designated warehouse within a reasonable time;
  - (f) any other loss or damage of whatsoever nature which is caused through an instruction not given by the Company or through matters which could not have been foreseeable even with care of a prudent business man;
  - (g) any loss of revenue or business opportunities, lost profit, loss of anticipated savings or business or loss of goodwill; and
  - (h) any loss, damage or expenses arising from or as a result of insufficiency of the preparation, packing, storage, labeling or marking of the Artworks by Customer.

#### **7.0 Limitation of liability**

Subject to Clauses 5.3 and 6.0, and notwithstanding anything to the contrary, in the event that the Company is held or found to be liable to the Customer for any matter arising from or relating to or arising in connection with the provision of the Services, whether based on an action or claim in contract, negligence, tort or otherwise:

##### **7.1**

- (a) the liability of the company in respect of each Accepted Order for freight-forwarding, transportation, handling and storage of Artworks shall be limited to that period from the Company taking possession of the Artworks for the performance of the Services up to the completion of the Services, and in any case be limited to the lower of:
  - (i) a maximum 8.33 special drawing rights per kilo gross weight of the part of shipment involved; or
  - (ii) an aggregate of 1,000 special drawing rights per shipment.
- (b) If the loss or damage in respect thereof exceeds or might exceed the limit of liability as provided in (a) above, the customer shall:-
  - (i) by itself or through the Company arrange for insurance coverage for any loss or damage beyond the limit of liability ("**Additional Insurance**"); or
  - (ii) be entitled to give not less than 7 Business Days' written notice to Company any time before Company takes possession of the Artworks requiring that the said limit of liability be increased and in the event of such notice being given, the Customer shall within the said 7 Business Days agree with the Company an increase in the carriage charges and storage charges in consideration of the said increased limit;

**7.2** If Artworks, which are subject of the Agreement, are delivered at the wrong destination, the Company shall indemnify the Customer (provided the Customer provides supporting evidence), up to the costs of shipping the Artworks back to the correct destination.

**7.3** If the Customer elects to instruct the Company to procure the Additional Insurance on its behalf, the Parties shall agree on the insurance coverage including the insured sum and the damage to be covered in writing.

**7.4** The Company shall procure the Additional Insurance only on the basis of such written agreement. In case of any ambiguity, the Company shall be entitled to decide in its sole discretion on the type and extent of the insurance coverage and shall be entitled to procure such Additional Insurance on usual market terms. The Company shall be entitled to charge an additional fee for the procurement of the Additional Insurance and the Customer shall bear all disbursements incurred or arising from the procurement of such Additional Insurance. All such Additional



Insurance procured by the Company on behalf of the Customer are subject to the usual exceptions and conditions of the policies of the insurance company or underwriters taking the risk.

- 7.5 The Customer agrees to indemnify, reimburse, defend and otherwise hold harmless the Company from and against all and any third party claims, proceedings, settlement sums, costs, losses, expenses, damages or other liabilities (including loss of or damage to any property or injury to or death of any person or any legal fees and expenses on a solicitor-client basis), which are or which may be sustained, caused, instituted, made or alleged against, suffered or incurred by the Company, and which may arise out of or in connection with:-
- (a) the Customer's breach or non-performance of any term of the Agreement or any warranty made herein or through default of the Customer;
  - (b) any negligent act, omission, willful default, misconduct or fraud of the Customer;
  - (c) incomplete or inaccurate information provided by the Customer; and
  - (d) violation of any applicable laws and regulations or legal requirements or breach of any statutory duties.

- 7.6 Irrespective of all the above in Clause 7, the Company's liability towards the Customer for an Accepted Order shall be limited to the service fees and charges received by the Company from the Customer for that Accepted Order or confined to the amount recoverable by the Company's insurer, if applicable and whichever is the higher.

#### **8.0 Delivery, claims**

- 8.1 Unless otherwise agreed between the Parties, the Company shall be entitled to deliver the Artworks to any person present at the delivery destination specified in the Quotation.
- 8.2 If any damage is externally visible upon delivery on the Artworks, the Customer must forthwith declare the damage in a condition report to be signed by both Parties, failing which the Company shall have no liability whatsoever. Any damages which are not visible shall be informed by the Customer to the Company in writing immediately and in any case no later than seven (7) days after delivery, failing which the Company shall have no liability whatsoever.
- 8.3 If there is no person available to take delivery of the Artworks at the delivery destination, the Company shall be entitled to store the Artworks or any part thereof at the sole risk of the Customer. Whereupon the liability of the Company in respect of such Artworks shall wholly cease and the cost of such storage and all other expenses and liability paid or payable or incurred or which may be incurred by the Company shall be paid by the Customer on demand.

#### **9.0 Cancellation Charges**

- 9.1 Once an Order has been accepted by the Company, a binding contract will be formed between the Customer and the Company. In the event Customer cancels an Order for Services, the Customer shall notify the Company in writing (the "**Cancellation Notice**") and shall pay within seven (7) days upon receipt of the Cancellation Notice by the Company, all previously unbilled costs and expenses incurred by Company (including labor and materials) prior to receipt of the Cancellation Notice, plus a cancellation charge equivalent to ten percent (10%) of the total contract price for the Services; No cancellation by Customer will be accepted after the date of commencement of the Services. All amounts paid by Customer prior to receipt of the Notice of Cancellation are non-refundable and are not subject to any set-off between the Parties.

#### **10.0 Additional Work and Specification Changes**

- 10.1 If the Customer wishes to change all or any part of the Accepted Order, the Customer shall serve the Company with notice in writing specifying such proposed change. The Company shall use its reasonable endeavors to satisfy any changes that Customer may request regarding the original specifications of the Services and the Company shall as soon as practicable upon receipt of the notice from Customer requesting changes, inform the Customer whether or not it accepts such changes. Customer acknowledges and recognizes Company's right to charge additional fees for such changes. The Parties agree that if the Customer requires the Company to perform any additional services in response to any request by Customer for related services which are outside the scope of the Services in the Accepted Order, such additional services and the fees for such additional services shall be



agreed by Customer and Company in a written and signed addendum to the Accepted Order and shall be governed by these Standard Terms and Conditions.

**10.2** If the Services are to be provided within a specified time period ("**Schedule**") and Customer subsequently requests that Company vary such Schedule, Company shall have the right to assert additional charges to cover any additional personnel costs and other costs and expenses which Company incurs in accommodating such change.

#### **11.0 Payment terms, Summation, Limitation of time**

**11.1** All Invoices shall be paid in full (without deduction or deferment on account of any claims, counterclaims or set-off) within seven days after delivery of the Invoice to the Customer. Any Invoice which is not paid within seven (7) days, even without a payment reminder, shall bear a 2% per months interest fee commencing on the day immediately after the due date including usual fees, or the maximum rate permitted by law if lower. An invoice that is sent by hand is deemed to be delivered at the time it is so delivered, and if sent by post, 2 Business Days following the date that the invoice was posted. The delivery of the Invoice by email is sufficient and is deemed delivered on the day of transmission.

**11.2** All freight claims, general average deposits and expenses, custom duties, taxes imposed or levied by applicable governmental agencies in connection with any of the Services and other expenses which are demanded towards the Company as holder of the Artworks or authorized holder to dispose of the Artworks, shall be borne by the Customer or Customer shall reimburse the Company for such freight claims, general average deposits and expenses, custom duties, taxes, if such freight claims, general average deposits and expenses, custom duties, taxes are levied or assessed against the Company.

**11.3** Against claims contractually stipulated in these Standard Terms and Conditions and against related non-contractual claims, set-off shall be only permissible with unobjected counterclaims due of the same kind or nature. The same principle shall be applicable to retention.

#### **12.0 Lien and suspension of services**

**12.1** Without prejudice to any other rights or remedies which the Company may have, if delivery of the Artworks or any part thereof is not taken by the Customer or any other persons entitled to the delivery of the same at the scheduled time and place specified on the Accepted Order, the Company is entitled to call upon the Customer to take delivery thereof. The Company shall be entitled to store the Artworks or any part thereof in accordance with the Company's storage protocols at the sole risk and expense of the Customer.

**12.2** The Company shall have a general and particular lien on the Artworks relating thereto which are in the Company's possession, custody or control for all sums due and payable by the Customer to the Company, and for any payments, duties, interests, defaults, fines or other expenses due at any time to the Company from the Customer. Storage and other applicable charges in respect of the Artworks under lien shall continue to accrue on the account of the Customer.

**12.3** On account of all claims due and not due that the Company shall be entitled to, on the basis of the Services performed for the Customer, the Company shall have a lien regarding any goods or other assets of the Customer being in the Company's possession, in addition to any other rights or remedies it has by law.

**12.4** If the Customer is in default of payment of any Invoices for a period in excess of ninety (90) Days, upon giving seven (7) Business Days prior written notice to the Customer, the Company may at its absolute discretion and without notice suspend or cease providing all or part of the Services without any liability whatsoever. At the Company's discretion, it may proceed to deal with, take control of and sell the Artworks in the Company's possession in any way that the Company considers to be reasonably appropriate in its sole discretion after a due assessment of the circumstances. The proceeds of sale shall be applied in satisfaction of firstly, the costs and expenses of the sale or disposal and secondly any unpaid invoices without any liability whatsoever on the part of





the Company to the Customer. In the event of the Company being unable to identify, locate or communicate with the Customer notwithstanding appropriate investigations or actions, the Company may sell the goods and assets of the Customer in the manner outlined above without giving prior written notice. The Customer acknowledges and irrevocably and unconditionally accepts that the Company shall have right to exercise a lien and sale of the Artworks pursuant to the foregoing and the Customer shall have no claim against the Company for recovery or return of the sold Artworks or request for a share or return of any part of the proceeds of sale thereof, save for any remaining funds from the proceeds of sale after full settlement of all monies due from the Customer to the Company. The Company shall be entitled to charge sales commission or a service fee on the basis of gross proceeds on such sale. In the event that the proceeds of sale are insufficient to satisfy all sums due to the Company, the Company shall be entitled to recover from the Customer all sums which remain outstanding.

**12.5** No action or claims, no matter on what legal grounds or form, arising out of or relating to this Agreement may be brought by the Customer more than one year after the cause of action has accrued ("**Limitation Period**"). The Limitation Period shall commence from the date of delivery of the Artworks. In the event of non-delivery of the Artworks, the Limitation Period shall commence on the scheduled delivery date specified on the applicable Accepted Order.

### **13.0 Protection of Confidential Information**

No Party ("**Recipient**") shall disclose or release to any third party any Confidential Information of the other Party ("**Discloser**") received or obtained in the course or for the purposes of the Agreement nor use the Confidential Information for any purpose other than the performance of its obligations under the Agreement without the Discloser's prior written consent during the term of the Agreement, and thereafter for a period of five (5) years from the termination of the Agreement (the "**Confidentiality Period**"), except for:

- 13.1.1 information which was at the time of the disclosure, or thereafter falls, in the public domain without willfulness or misconduct of the Recipient;
- 13.1.2 information which, prior to disclosure hereunder, was already in the Recipient's possession either without limitation on disclosure to others or subsequently becoming free of such limitation; and
- 13.1.3 information which the Recipient is required to disclosure by law, order of court, or by the rules and regulations of any relevant regulatory governing body with jurisdiction over the Recipient.

The Recipient agrees to the subsequent return or destruction of all Confidential Information upon expiry of the Confidentiality Period. Notwithstanding the foregoing, each Party may disclose the Confidential Information only to its employees and agents on a need-to-know basis, and shall maintain adequate internal procedures, including appropriate binding agreements with employees and agents, to protect the Confidential Information in the same manner as it protects its own confidential proprietary information.

### **14.0 Final Clause**

**14.1** These Standard Terms and Conditions shall be governed by, and construed in accordance with, the laws of Hong Kong, S.A.R. The Parties submit to the non-exclusive jurisdiction of the Courts of Hong Kong, S.A.R for the settlement of any claims or disputes between the Customer and the Company.

**14.2** In the event that any provision of these Standard Terms and Conditions of Agreement between the Parties shall be held to be illegal, invalid or unenforceable, in whole or in part, under any enactment or rule of law, such term or part shall to that extent be deemed not to form part of these Standard Terms and Conditions but this shall not affect the legality, validity or enforcement of all remaining provisions of these Standard Terms and Conditions.

**14.3** A person or entity who is not a Party to the Agreement shall have no right under the Contracts (Rights of Third Parties) Act (Chapter 53B) to enforce any term of the Agreement, regardless of whether such person or entity has been identified by name, as a member of a class or as answering a particular description. For the avoidance of doubt, nothing in this Clause 14.3 shall affect the rights of any permitted assignee or transferee of this Agreement.

**14.4** This Standard Terms and Conditions are to be made and executed in English. The Chinese version of this Standard Terms and Conditions provided by Group Company is only for the purpose of facilitating the



understanding the context of this Standard Terms and Conditions and with no warranty of Group Company that the content, meaning and expression in the Chinese version are absolutely consistent with the English version which shall prevail in case of any discrepancies or inconsistencies.





DECLARATION BY THE CUSTOMER

I have received and read the Standard Terms and Conditions of IFAS and agree to be bound by such terms and conditions.

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SIGNATURE

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PLACE / DATE

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For and on behalf of

[NAME OF CUSTOMER]