

## **TERMS OF SERVICE COMMISSIONED ARTWORK**

PLEASE READ THE FOLLOWING TERMS OF SERVICE AGREEMENT CAREFULLY. BY ACCESSING OR USING OUR WEBSITE (THE "SITE") OR OUR SERVICES, OR REQUESTING OUR SERVICES, YOU HEREBY AGREE TO BE BOUND BY THESE TERMS AND CONDITIONS AND ALL TERMS INCORPORATED HEREIN BY REFERENCE. IT IS THE RESPONSIBILITY OF YOU, THE USER, CUSTOMER, OR PROSPECTIVE CUSTOMER TO READ THE TERMS AND CONDITIONS BEFORE PROCEEDING TO USE THIS SITE OR TO REQUEST THE SERVICES. IF YOU DO NOT EXPRESSLY AGREE TO ALL OF THE TERMS AND CONDITIONS, THEN PLEASE DO NOT ACCESS OR USE OUR SITE OR SERVICES.

The present terms and conditions (this "Agreement" or "Terms") is a legal agreement between you (the "Recipient") and May Levy Art LLC (the "Provider"), a company duly organized and validly existing, registered in the state of California.

- 1. DESCRIPTION OF SERVICES.** The Provider will provide to the Recipient the following services (collectively, the "Services"):

The creation of one original custom work of art delivered as a digital file no larger than 3MB.

- 2. PAYMENT.** Payment shall be made to the Provider in the total amount of \$333 upon request of the Services.

In addition to any other right or remedy provided by law, if the Recipient fails to pay for the Services when due, Provider has the option to treat such failure to pay as a material breach of this Agreement and may cancel this Agreement and/or seek legal remedies.

- 3. WORK PRODUCT OWNERSHIP.** Any copyrightable works, ideas, discoveries, inventions, patents, products, derivative works, or other information (collectively the "Work Product") developed in whole or in part by Provider in connection with the Services will be the exclusive property of Provider. Upon request, Recipient will execute all documents necessary to confirm or perfect the exclusive ownership of Provider to the Work Product.

Provider retains a non-exclusive royalty-free license to use the Work Product as Provider sees fit, including for the creation and sale of derivative or identical works.

- 4. MODIFICATIONS.** Recipient may not modify or change the Work Product in any manner.

- 5. DEFAULT.** The occurrence of any of the following shall constitute a material default under this Agreement:

- a. The failure to make a required payment when due.
- b. The failure to make available or deliver the Services in the time and manner provided for in this Agreement.

- 6. ARBITRATION.** The parties will attempt to resolve any dispute arising out of or relating to this Agreement through friendly negotiations amongst the parties. If the matter is not resolved by

negotiation within 30 days, the parties will resolve the dispute using the below Alternative (ADR) procedure. Any controversies or disputes arising out of or relating to this Agreement will be resolved by binding arbitration under the rules of the American Arbitration Association. The arbitrator's award will be final, and judgment may be entered upon it by any court having proper jurisdiction.

- 7. WARRANTIES.** Neither party makes any warranty with respect to the use, sale or other transfer of the Work Product by the other party or by any third part, and Recipient accepts the product "AS IS." In no event will May Levy be liable for direct, indirect, special, incidental or consequential damages, that are in any way related to the Work Product.
- 8. TRANSFER OF RIGHTS.** This Agreement shall be binding on any successors of the Recipient. Recipient does not have the right to assign its interests in this Agreement to any other part, unless the prior written consent of the Provider is obtained.
- 9. ENTIRE AGREEMENT.** This Agreement contains the entire agreement of the parties and there are no other promises or conditions in any other agreement whether oral or written. This Agreement supersedes any prior written or oral agreements between the parties.
- 10. AMENDMENT.** This Agreement may be modified or amended by Provider, if the amendment is made in writing and delivered to the Recipient by way of information provided in Service request form.
- 11. SEVERABILITY.** If any provision of this Agreement shall be held to be invalid or unenforceable for any reason, the remaining provisions shall continue to be valid and enforceable. If a court finds that any provision of this Agreement is invalid or unenforceable, but that by limiting such provision it would become valid or enforceable, then such provision shall be deemed to be written, construed, and enforced as so limited.
- 12. WAIVER OF CONTRACTUAL RIGHT.** The failure of either party to enforce any provision of this Agreement shall not be construed as a waiver or limitation of that party's right to subsequently enforce and compel strict compliance with every provision of this Agreement.
- 13. APPLICABLE LAW.** This Agreement shall be governed by the laws of the State of California.