

Artsmark Plaques

Terms and Conditions of Supply

Date of publication: 31 August 2018

1. Introduction

- 1.1 These terms and conditions together with any documents expressly referred to in them (“**Terms**”) set out the legal terms and conditions on which we supply Artsmark Wall Plaques (“**Artsmark Plaques**”).
- 1.2 In this Agreement:
 - 1.2.1. “**us**” means Arts Council England and any party purchasing an Artsmark Plaque.
 - 1.2.2. “**you**” or “**your**” means the legal entity or person(s) purchasing/receiving an Artsmark Plaque.
 - 1.2.3. “**we**” or “**our**” means ACE and includes our employees and those acting for us.
 - 1.2.4. “**ACE**” means The Arts Council of England trading as Arts Council England, a registered charity (charity number: 1036733) whose registered office is 21 Bloomsbury St, Bloomsbury, London WC1B 3HF, United Kingdom.
- 1.3 Any reference to a “**Website**” in these Terms is a reference to the Artsmark website at **www.artsmark.org.uk**.
- 1.4 These Terms will apply to any contract between us for the supply of Artsmark Plaques to you (“**Contract**”). Please read these Terms carefully and make sure that you understand them, before ordering any Artsmark Plaques from us. By ordering an Artsmark plaque you are agreeing to accept these Terms. You should print out a copy of these Terms or save them to your computer for future reference.
- 1.5 These Terms are effective from the date of publication shown above and may be amended by ACE from time to time. Every time you wish to order Artsmark Plaques from us, please check these Terms, available at www.artsmark.org.uk/plaques to ensure that you understand the terms which will apply at that time.

2. Artsmark Plaques

- 2.1 Any images of Artsmark Plaques on our Website are for illustrative purposes only. Although we have made every effort to display the colours accurately, we cannot guarantee that your computer's display of the colours accurately reflect the colour of the Artsmark Plaques. The Artsmark Plaque delivered to you may vary from those images.
- 2.2 The packaging of Artsmark Plaques may also vary from that shown on images on our Website.
- 2.3 All of the Artsmark Plaques shown on our Website are subject to availability. We will inform you by email as soon as possible if the Artsmark Plaque you have ordered is not available and we will not process your order further.

3. Use of our Website

3.1 Your use of our Website is governed by our “**Terms of Use**” document which is applicable to it. Please take the time to read this document, as it includes important terms which apply to you. It is available here: <https://www.artscouncil.org.uk/terms-and-conditions>.

4. How we use your personal information

4.1 We only use your personal information in accordance our Privacy Policy. For details, please see our Privacy Policy. Please take the time to read this policy, as it includes important terms which apply to you. It is available here: <https://www.artscouncil.org.uk/cookie-policy>.

5. Authority to purchase and entitlement to Artsmark Plaques

5.1 You confirm that you have authority to bind the organisation upon whose behalf you are using our Website to purchase any one or more Artsmark Plaques for that organisation.

5.2 We will check your Artsmark status before dispatching an Artsmark Plaque to you and if we find that you are not entitled to the Artsmark Plaque ordered (as a result of not being certified to the appropriate level), we will, without liability, cancel your order.

5.3 You agree to cease using the Artsmark Plaque if you, or your organisation, no longer holds the required Artsmark status (Silver, Gold or Platinum).

6. Ordering

6.1 To place an order request for an Artsmark Plaque please follow this link: www.artsmark.org.uk/plaques.

6.2 All successful orders will be confirmed by email (“**Confirmation Email**”). Our acceptance of your order will take place in accordance with and as described in clauses 5.2 and 6.3.

6.3 In the unlikely event that we are unable to supply you with an Artsmark Plaque, we will inform you of this by email and we will not process your order. If you have already paid for an Artsmark Plaque in such circumstances, we will refund you the full amount as soon as possible.

7. How to Pay

7.1 Following the issue of a Confirmation Email, we shall raise an invoice for payment by you.

7.2 Payment for the Artsmark Plaque(s) you have ordered and all applicable delivery charges is in advance. We regret that we will not process any order request for despatch until we have received payment.

8. Delivery

8.1 Once we receive payment in accordance with clause 7, we shall send an email to you setting out the estimated delivery date. If we are unable to meet our estimated delivery date, we will contact you with a revised estimated delivery date.

8.2 Delivery will be completed when we deliver the Artsmark Plaque(s) you ordered to the address you gave us, by signed second class Royal Mail. Artsmark Plaques, which you order

and are delivered to you, will be owned by you and be your responsibility from the completion of delivery.

9. Prices and Delivery Charges

- 9.1** The prices of Artsmark Plaques will be as quoted on our Website. We take reasonable care to ensure that these prices are correct at the time when the relevant information was entered onto the system. However if we discover an error in the price of Artsmark Plaque(s) you ordered, please see clause 9.5 for what happens in this event. Prices for the Artsmark Plaques may change from time to time, but changes will not affect any order where a Confirmation Email has been sent.
- 9.2** The price of the Artsmark Plaques is exclusive of VAT (where applicable) and delivery charges.
- 9.3** VAT will be charged at the applicable current rate chargeable in the United Kingdom at the time of payment.
- 9.4** The price of the Artsmark Plaques as quoted on our Website excludes delivery charges. We shall pass on the cost of signed second class Royal Mail for the delivery of the Artsmark Plaque to you.
- 9.5** It is always possible that, despite our reasonable efforts, some of the Artsmark Plaques on our Website may be incorrectly priced. If we discover an error in the price of the Artsmark Plaque(s) you have ordered we will inform you of this error and we will give you the option to purchase the Artsmark Plaque(s) at the correct price or cancel your order. We will not process your order until we have your instructions. If we are unable to contact you using the contact details you provided during the order process, we will treat the order as cancelled and notify you in writing.

10. Warranty

- 10.1** We warrant that on delivery and for a period of 12 months from delivery, the Artsmark Plaques shall be free from material defects. However, this warranty does not apply in the circumstances described in clause 10.2.
- 10.2** The warranty in clause 10.1 does not apply to any defect in Artsmark Plaques arising from:
- 10.2.1.** fair wear and tear;
 - 10.2.2.** wilful damage, abnormal storage or placement conditions, accident, negligence by you or by any third party; or
 - 10.2.3.** any alteration or repair of them by you or by a third party.
- 10.3** If, on inspection immediately following delivery, you discover that your Artsmark Plaque has been damaged, please contact us immediately at artsmark@artscouncil.org.uk and we will take reasonable steps to arrange for re-delivery of a new plaque at no further cost to you.

11. Liability

- 11.1** We supply Artsmark Plaques only to organisations that are entitled to receive them, having achieved the relevant Artsmark status (Silver, Gold or Platinum). They are not for the use of

any organisation that has not achieved such status, or no longer holds such status, and you agree not to supply Artsmark Plaques we have delivered to you to any person or organisation outside of your organisation.

11.2 Nothing in these Terms limits or excludes our liability for:

11.2.1. death or personal injury caused by our negligence;

11.2.2. fraud or fraudulent misrepresentation; or

11.2.3. breach of the terms implied by Section 12 of the Sale of Goods Act 1979 (title and quiet possession).

11.3 Subject to clause 11.2, we will under no circumstances whatsoever be liable to you, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, arising under or in connection with the Contract for:

11.3.1. any loss of profits, sales, business, or revenue;

11.3.2. loss of business opportunity;

11.3.3. loss of anticipated savings;

11.3.4. loss of goodwill; or

11.3.5. any indirect or consequential loss.

11.4 Subject to clause 11.2 and clause 11.3, our total liability to you in respect of all other losses arising under or in connection with the Contract, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, shall in no circumstances exceed five times the price of the Artsmark Plaques you order, or £500, whichever is the greater.

11.5 Except as expressly stated in these Terms, we do not give any representation, warranties or undertakings in relation to the Artsmark Plaques. Any representation, condition or warranty which might be implied or incorporated into these Terms by statute, common law or otherwise is excluded to the fullest extent permitted by law. In particular, we will not be responsible for ensuring that the Artsmark Plaques are suitable for your purposes other than where those purposes comprise solely of displaying the Artsmark Plaques (indoors) to show that your organisation has achieved Artsmark status.

12. Communications between Us

12.1 Where we refer, in these Terms, to "**in writing**", this includes email.

12.2 If we have to contact you or give you notice in writing, we will do so by email or by first class post to the address you provide to us in your order.

12.3 Please note that any notice given by you to ACE, or by ACE to you, will be deemed received and properly served:

12.3.1. immediately when posted on our Website,

12.3.2. at the time an email is received by the server or if outside business hours at 9.00am on the next business day, or

12.3.3. three days after the date of posting of any letter.

12.4 In proving the service of any notice, it will be sufficient to prove, in the case of a letter, that such letter was properly addressed, stamped and placed in the post and, in the case of an email, that such email was sent to the specified email address of the addressee. The provisions of this clause shall not apply to the service of any proceedings or other documents in any legal action.

13. Other Important Terms

13.1 We may transfer our rights and obligations to another organisation, but this will not affect your rights or our obligations under these Terms.

13.2 This Contract is between you and ACE. No other person shall have any rights to enforce any of its terms (including the Terms), whether under the Contracts (Rights of Third Parties Act) 1999 or otherwise.

13.3 Each of the paragraphs of these Terms operates separately. If any court or relevant authority decides that any of them are unlawful or unenforceable, the remaining paragraphs will remain in full force and effect.

13.3.1. A person includes a natural person, corporate or unincorporated body (whether or not having separate legal personality).

13.3.2. Unless the context otherwise requires, words in the singular shall include the plural and in the plural include the singular.

13.3.3. Unless the context otherwise requires, a reference to one gender shall include a reference to the other genders.

13.3.4. A reference to a statute or statutory provision is a reference to it as amended, extended or re-enacted from time to time.

13.4 If we fail to insist that you perform any of your obligations under these Terms, or if we do not enforce our rights against you, or if we delay in doing so, that will not mean that we have waived our rights against you and will not mean that you do not have to comply with those obligations. If we do waive a default by you, we will only do so in writing, and that will not mean that we will automatically waive any later default by you.

13.5 These Terms are governed by English law and any dispute or claim arising out of or in connection with the Terms or its subject matter or formation (including non-contractual disputes or claims), will be governed by English law.