

Terms and conditions for the use of the ArtPhotoLimited platform

The following terms and conditions govern the access and the use of the ArtPhotoLimited platform (<https://www.artphotolimited.com>) and are valid between the parties from the moment of the agreement given by the Photographer on the day of his/her registration.

The Photographer commits to taking note of and respecting the rules specified in these terms and conditions as well as the ones of [General conditions of use for the Buyers ArtPhotoLimited Platform](#).

The platform is made available online, managed and operated by the company ArtPhotoLimited, the headquarters of which are located Quai des Chartrons, Hangar 15, 33300 Bordeaux, registered at the Bordeaux trade and companies register under the number 820 179 687, represented by its Chairman Mister Nicolas LAURET, resident as a president at the above mentioned headquarters.

The professional Photographer wishes to develop the sales of his/her artworks and is about to create a free account on ArtPhotoLimited. He/she acknowledges that the creation of his/her account and the use of the services are subject to the following terms and conditions. By validating his/her registration, the Photographer agrees to these terms and conditions in their integrality. Any conditional membership would be considered as null and void.

Photographers living in France territory must read and accept the French version of the terms and conditions available here: <https://www.artphotolimited.com/static-cgmadp>.

Article 1 – Description of the service

ArtPhotoLimited allows professional photographers to present their artworks on a platform available at the address <https://www.artphotolimited.com>.

In no case will the digital files be transmitted to third parties, except the printing company directly commissioned to make the prints.

The platform allows photographers :

- To present their artworks
- To set their prices for each artwork and dimension, excluding printing and framing fees (see Article 6)
- To define the number of copies of the edition of each artwork, with a maximum of 300 copies
- To choose whether or not to add their signature on the certificate of authenticity printed by ArtPhotoLimited
- To benefit from an online secured payment system for the web users, as well as a printing service and logistics for the production of the orders of the web users. The Photographer expressly acknowledges and accepts as of now that in the event of a violation of one of the obligations of these terms and conditions, ArtPhotoLimited reserves the right, without any possible objection from the Photographer, to pay back the amount of his/her order to the Buyer. In that case, there will be no repayment for the benefit of the Photographer. In the event of repeated incidents between the Photographer and different buyers, ArtPhotoLimited reserves the right to suspend or delete the Photographer's account. In case the Buyer uses his/her right of withdrawal, no payment will be made to the Photographer regarding this sale, and no commission will be charged to him/her.

ArtPhotoLimited only is authorized to determine the content, the appearance, the design, the functions and any other aspect of the website www.artphotolimited.com (including the right to re-design, modify, remove or change any content, aspect, design, functionality, and other aspects of it), and to ban or restrict the access to the website and to any other component, their aspect, part or data (including the artworks on sale), and to postpone or suspend a sale, to refuse to put up for sale or to withdraw from sale, to ask the Photographer not to put up for sale either of his/her artworks.

Article 2 – Capacity of the Photographer – Personal information

The Photographer certifies that he/she has the legal capacity to commit, and commits to providing only complete and updated information. In the event of the modification of his/her status (new VAT liability, address modification of the company, email modification, etc.), he/she commits to modifying the information on the website ArtPhotoLimited. He/she will undertake alone the legal, fiscal or judicial consequences of any wrong or outdated information.

In any case, the Photographer, whatever his/her status and tax system, will manage alone the tax reporting arising from the possible revenue made in case of a sale, and will alone integrate these income in his/her accounting. ArtPhotoLimited does not undertake any administrative obligation linked to the Photographer's accounting.

Under the article 87 of French legislation n°2015-1285 dated 29 December 2015 (Finance law), the Photographer is warned that ArtPhotoLimited could be obliged to provide a record of the sales made through the platform to the fiscal Administration.

On the day of his/her registration, and committing to keep this information up-to-date at any time if necessary, the Photographer will be asked to provide the following :

- Last name and first name
- Valid email address
- Name of the company
- Company type
- Full postal address of the Photographer's company
- SIREN number of the company (France)
- Tax status
- VAT number if any
- Biography
- Prizes and awards
- Exhibitions

ArtPhotoLimited reserves the right to ask for all the supporting documents, such as, without this list being restrictive :

- KBIS extract issued within the last three (3) months or a similar certificate of incorporation for any entity without a KBIS
- Identity card of the photographer in a personal business or as a legal representative of his/her company

It is forbidden for the Photographer to mention or to suggest in his/her name and in his/her biography any hyperlink external to ArtPhotoLimited. The Photographer's name must not be represented by a domain name (for example françois-photographer.com). Furthermore the Photographer will not provide a name that could create a risk of confusion with ArtPhotoLimited. If a Photographer does not respect these conditions, ArtPhotoLimited will be able to suspend his/her account until the necessary changes are made. In that case, the Photographer's artworks will be removed from ArtPhotoLimited. If the Photographer refuses to make these changes, ArtPhotoLimited reserves the right to proceed with the closure of the account.

At the time of his/her registration, the Photographer will choose a username and a password. The Photographer is solely responsible for the security of his/her username and password. The disclosure to third parties is not authorized. The username can be used only to access to ArtPhotoLimited and to its services. The Photographer is solely responsible for all the actions taken in his/her name. If unauthorized persons get to know their username and/or password, the Photographer must change them without delay.

ArtPhotoLimited reserves the right to approve or reject any registration request.

Article 3 – Termination

The registration of the Photographers is made for an indefinite period.

At his/her convenience, the Photographer can end his/her registration at any time through the Photographer interface. The subsequent closure of the account will be effective within 72 hours after the termination request made by the Photographer.

At its convenience, ArtPhotoLimited has the possibility to terminate the Photographer's registration following a 1 month notice from the date of dispatch of a registered letter with an acknowledgement of receipt notifying the termination to the Photographer.

Any breach or incorrect execution by the Photographer of the obligations specified in these terms and conditions can trigger the following penalties :

- The immediate and temporary suspension of the Photographer's account ;
- The immediate suspension of all payments of the amounts received for the account of the Photographer ;
- The termination of the Photographer's account after notice has been provided without any result within 30 days.

In the event of a termination by either Parties and for any reason, all the amounts owed by the Photographer at the effective date of termination are payable immediately. The Photographer loses his/her quality of Photographer and consequently :

- All of his/her artworks are immediately removed from ArtPhotoLimited at the effective date of termination,
- His/her Photographer area becomes inaccessible at the effective date of termination

Article 4 – Constraints linked to the numbering of the artworks

The Photographer is aware that he/she is responsible for not making available print numbers that would have already been sold elsewhere, by avoiding any duplicate entry or confusion regarding the number of artworks sold.

The Photographer will therefore be careful to only put up for sale the prints of which the numbers have not been sold yet, and will bear the full responsibility of following up his/her sales.

Article 5 – Use of the platform

5.1. Selection and online availability of the photographs

The Photographer will select by him/herself the photos that he/she intends to put up for sale, and will upload him/herself the files online.

According to their topic, the Photographer will file his/her photos in the categories available on ArtPhotoLimited and will add a title and a description.

The Photographer will add keywords to allow research through to search engine of the platform.

He/she will define the printing sizes he/she wishes to make available for sale, within the list provided by ArtPhotoLimited and according to the file's specifics.

He/she will also fill in the print numbers that remain available for each artwork as well as the selling price for each printing size. The printing and shipping costs paid by the buyer will be added to the selling price.

It is forbidden for the Photographer to mention or suggest in the title of his/her artworks and within keywords any hyperlink external to ArtPhotoLimited. If a Photographer did not respect these conditions, the Photographer's artworks would be removed from ArtPhotoLimited.

5.2. Files specifications

The Photographer will make sure to provide a file with a sufficient resolution to allow printing in the size he/she has chosen. This file must comply with the ICC profile given by ArtPhotoLimited, and which will be used for the printing. The Photographer is solely responsible for the conformity of the file quality according to the printing considered. He/she is aware that the success of the platform also depends on the quality of the photograph.

5.3. Printing and shipment in case of an order

In case of an order validated by a web user, he/she will cover the printing and shipping costs which will be included in the price of the photograph.

ArtPhotoLimited takes care of entrusting the production and the shipment of the print to a provider chosen for the quality of his work.

5.4. General Requirements of the Photographer

The Photographer commits not to :

- Bypass the web robots exclusion protocols or any other measure taken to prevent or limit the access to the host website ;
- Post pornographic or child pornographic artworks
- Break any law, third parties' rights or the provisions of these terms and conditions
- Post fake, wrong, misleading or defamatory content (including personal information) ;
- Transfer his/her account to a third party
- Use the platform with the username of another person ;
- Copy, modify or distribute content from <https://www.artphotolimited.com>
- Collect in any way information about the users of ArtPhotoLimited
- Damage the image of ArtPhotoLimited in any way, specifically through fake, offensive, defamatory or slanderous comments about ArtPhotoLimited

Article 6 – Cost of the service – Invoicing

The Photographer will earn, for each sale, a 30% remuneration calculated on the price paid by the customer excluding VAT and import taxes less printing and shipping costs (excluding VAT), as listed on this address:
<https://cdn.artphotolimited.com/pages/shared/Frais+de+tirage+et+d%27encadrement.pdf>

Example :

- Framed print sold 240 € inc VAT to the buyer, ie 200€ exc VAT
- On this order, printing / framing / shipping fees amount to 100 € TTC, ie 83,33€ exc VAT
- The Photographer will earn $30\% \times 116,67 = 35,00\text{€}$ exc VAT

As a first step, the invoice for the buyer will always be established by and in the name of ArtPhotoLimited and will state, for the buyer, the concerned print(s) (potentially from different photographers).

In a second step, ArtPhotoLimited will then establish, in the name of the Photographer who gives it mandate by its acceptance to the present general conditions, an invoice of the Photographer to ArtPhotoLimited dated the day of the sale. For all photographers living outside France territory, no VAT will be added on this invoice.

On its back-office, the Photographer can monitor all his orders made on the Platform including the details of the amounts that he earned order per order.

After the establishment of the invoice from the Photographer to ArtPhotoLimited, the amounts due to the photographer will be paid according to article 7.

The photographer commits to inform ArtPhotoLimited of any change regarding its fiscal situation. He commits to ask for all the invoices that he did not receive in due time.

The Photographer is informed that he remains liable for any failure to comply with the invoicing rules and that he is liable for VAT consequences.

Article 7 – Payment of the amounts owed to the Photographer

Once a sale has become final (the right of withdrawal attached has expired and not exercised) and is not under any unresolved claim on the part of the buyer, ArtPhotoLimited shall pay to the Photographer the amounts due to him, according to the statement of account also kept at his disposal in the backoffice.

However, in order to limit the administrative costs, a balance which would be less than 50 € TTC in favor of the Photographer would be postponed to the following month for a maximum of 3 months. In the event of the closing of the account at the request of the Photographer, the amounts due to him shall in any case be paid, irrespective of their size.

Article 8 – Copyright of the Photographer

8.1. Warranty

The Photographer commits not to put up for sale photographs of which he/she would not be the author, or on which third parties would detain copyright.

He/she guarantees ArtPhotoLimited against the consequences of any claim or legal action resulting from the use of counterfeit artwork.

In case of a claim or a legal action, ArtPhotoLimited reserves the right to suspend wholly or in part the Photographer's account.

The Photographer will undertake the cost of the possible sentences against ArtPhotoLimited resulting from counterfeit, if counterfeit is proven, and mainly the interests and legal fees. ArtPhotoLimited also reserves the right to assert its own prejudice, provided it proves the importance of this prejudice.

In case of a dispute related to third parties copyright, the amounts owed by ArtPhotoLimited to the Photographer will be temporarily kept in order to be used as compensation in case of a sentence. ArtPhotoLimited reserves the right to delete from the sales area all or part of the Photographer's photographs until complete resolution of the dispute (amicably or judicially).

8.2. Protection

ArtPhotoLimited commits to ensuring the protection of the photographs put up for sale on the website, and mainly :

- To work only with reliable and serious providers when producing the prints, and to obtain a contractual commitment from them not to distribute or to use the artworks in any way.
- Not to transfer to third parties the high resolution digital files allowing the reproduction of the artworks, subject to article 9.3. below.

Subject to the respect of these conditions, ArtPhotoLimited will not be liable for any unauthorized use made by third parties.

8.3. Communication about the website ArtPhotoLimited

The Photographer authorizes ArtPhotoLimited to reproduce – for the only purpose of communication around and about the website, and in order to increase the number of visitors and consequently the sales opportunities – the photographs that will seem appropriate to promote the platform.

These reproductions could be made digitally (website, social networks, emailing, display,...) or in print (flyers, point-of-sale advertising, etc.). In case of a digital use, ArtPhotoLimited commits to featuring each time it is technically possible a direct link to the Photographer's space in case a reproduction of one or several of his/her artworks is used.

In any case, the name of the Photographer will be mentioned legibly on or beside each reproduction.

The Photographer gives ArtPhotoLimited the right to resize the content he/she provides, mainly in the case where online presentations constraints or ergonomics would require it, preserving the ratio of the photograph and without altering it.

This authorization will last as long as the Photographer will keep his/her account open on the platform ArtPhotoLimited and he/she will display artworks for sale on the platform.

In case of a closure of the Photographer's account, whatever the reason, all digital uses will end immediately.

The parties mutually agree that the printed material (flyers, etc.) will be used until the end of the existing stock, without any possibility of reprint by ArtPhotoLimited.

Article 9 – Model release

When the Photographer puts online artworks featuring one or several recognizable person(s), he/she will make sure to have the authorization, in accordance with the law, the jurisprudence or a contract concluded with the person in question, to sell the prints in the form of artworks.

The Photographer shall bear full responsibility of such a sale.

ArtPhotoLimited reserves the right to accept a photograph only if the Photographer provides an authorization signed by the person in question, and covering the uses considered on the website.

The Photographer will guarantee ArtPhotoLimited against all the financial consequences of a sentence in this respect, mainly the interests, legal fees, besides the possible prejudice personally caused to ArtPhotoLimited, provided it proves the existence and the importance of this prejudice.

In case of a dispute related to model release, the amounts owed by ArtPhotoLimited to the Photographer will be temporarily kept in order to be used as compensation in case of a sentence. ArtPhotoLimited reserves the right to delete from the platform all or part of the Photographer's photographs until complete resolution of the dispute (amicably or judicially).

Article 10 – Community and interacting on the platform

ArtPhotoLimited reserves the right to create and develop, along the months, a community on the platform.

In the context of this community, the web users could be able to « like » the artworks

Rankings of the most popular artworks and/or photographers could be highlighted in order to create emulation and encourage the success of the platform.

In any case, ArtPhotoLimited commits to developing these new functionalities in respect of the Photographers' rights, by moderating the comments and/or imposing a chart of conduct to the web users.

Article 12 – Protection of personal data

The Photographer was specifically informed by ArtPhotoLimited of the nature, the extent and the purpose of the collection, the treatment and the use of personal data necessary for their registration and the execution of operations. The Photographer specifically accepts this collection, this treatment and this use of personal data. The Photographer can view and make changes in his/her information at any time.

In line with the General Data Protection Regulation (GDPR – from May 25th, 2018), ArtPhotoLimited commits:

- To use Photographer's personal data only for administrative communication purpose
- Not to share any photographer's personal data to any third party, excluding internal and external invoicing departments for the processing of invoices and payments
- Not to send any commercial offers to the Photographer, unless he expressly asked for it
- To collect and save only the personal data required to execute the present general conditions
- To delete all personal data as soon as his/her account has been closed, whatever party asked for the closing.

The Photographer acknowledges and accepts that when he/she puts a photograph up for sale on ArtPhotoLimited, personal information about him/her, mainly his/her first name and last name will be displayed on ArtPhotoLimited and will therefore be visible for any potential Buyer.

ArtPhotoLimited reserves the right, in case of presumption of a punishable act, to give the data of the Photographer in question (for example, contacts, IP address and information on his/her consultation of the website and published content) to the co-contractor, other parties or to the qualified investigation authorities.

As for the Buyers, the Photographer has only access to the information strictly necessary to the execution of the orders. He/she commits to ensuring the confidentiality and the integrity of this data, mainly by establishing all physical and logical means sufficient to ensure the security of the data. He/she will not use the data of the Buyers for any other purpose than the execution of the orders.

Article 12 – Liability of ArtPhotoLimited

ArtPhotoLimited implements all the means at its disposal to guarantee the services described in these terms and conditions but does not guarantee that the website <https://www.artphotolimited.com> will be available at all times.

ArtPhotoLimited is not liable for the information related to the artwork object of the sale.

ArtPhotoLimited is liable for any direct and predictable damage in the limit of the selling price object of the dispute.

ArtPhotoLimited will on no account be liable for any indirect damage such as loss of sales revenue or benefit, loss or alteration of data, damage of the image, etc.

ArtPhotoLimited and the Photographer will not in any case be considered as associates of any common entity. The Photographer carries out his/her activity on ArtPhotoLimited independently and at his/her own risks.

Article 13 – Applicable law and assignment of jurisdiction

Any dispute related to the execution, the interpretation or the termination of this contract will be covered by the French law.

Depending on the matter of the dispute, the qualified jurisdictions are as of now designated by the parties, namely :

For any dispute related to copyright, and in accordance with the decrees n° 2009-1204 of 9 October 2009 and n° 2010-1369 of 12 November 2010 amending the Code of Judicial Organization and with decree n° 2009-1205 of 9 October 2009 as well, amending the French Intellectual Property Code, one of the courts designated by these decrees or any jurisdiction an amending law would designate. For any other dispute, the court of the location of ArtPhotoLimited headquarters.

Article 14 – Validation

The online validation made by the Photographer equals unconditional acceptance of these conditions.

The Photographer is informed and aware that his/her account will not be created without this validation. Refusing to tick the box below would end the process, and the parties would not owe any amount to each other.

The use of the account on the website ArtPhotoLimited is henceforth technically possible only after the validation of these terms and conditions.

ArtPhotoLimited reserves the right to make changes to these general conditions. The Photographers will be informed of such changes by an email sent by ArtPhotoLimited ten (10) working days before the date of entry into force of the modified general conditions. The Photographer is free to accept the modified general conditions or to end his/her use of ArtPhotoLimited.

