

# Terms & Conditions For The Sale Of Artwork

to: Better Than Sex Franchisee  
by: John & Bernadette McCall

## Terms & Conditions For The Sale Of Artwork

### 1. Who are we?

Lover's Art also known as Lover's ART by Senses at Play- John & Bernadette McCall, Key West FL 33040 is a trading name of John & Bernadette McCall as a seller of artwork. These Terms & Conditions apply to the sale of artwork (the "Artwork") by the Artist (the "Artist") or by Lover's ART by Senses at Play (the "Gallery") to you.

It will always be made clear on the invoice who is the seller.

These Terms & Conditions do not apply to the sale of framing services or other production services.

### 2. Application And Territorial Scope

By entering into a contract with the Gallery or the Artist you are accepting these Terms & Conditions to the exclusion of any other terms that you may seek to impose or incorporate, or which are implied by trade, custom, practice or course of dealing. If you are a consumer, nothing in these Terms and Conditions will affect your legal rights.

Any samples, drawings, descriptive matter or advertising issued by the Gallery and any descriptions or illustrations contained in current Better than Sex Restaurants, Gallery's catalogs or brochures are issued or published for the sole purpose of giving an approximate idea of the products described in them. They

shall not form part of the contract between you and the Gallery or Artist or have any contractual force.

An order by you constitutes an offer to purchase Artwork in accordance with these Terms & Conditions. An order shall only be deemed to be accepted when the Gallery issues written acceptance of the order or takes payment at which point a legally binding contract upon these Terms & Conditions shall come into existence.

Any quotation given by the Gallery shall not constitute an offer, may be revoked at any time, and in any event shall only be valid for a period of 30 days from its date of issue (unless otherwise specified in the quotation).

### 3. Governing Law & Jurisdiction

These Terms and Conditions shall be governed by and construed in accordance with Florida law. Disputes arising in connection with these Terms & Conditions shall be subject to the exclusive jurisdiction of the Florida courts.

### 4. Severability and Waiver

If any provision or part-provision of these Terms & Conditions is or becomes invalid, illegal or unenforceable, it shall be deemed modified to the minimum extent necessary to make it valid, legal and enforceable. If such modification is not possible, the relevant provision or part-provision shall be deemed deleted. Any modification to or deletion of a provision or part-provision under this clause shall not affect the validity and enforceability of the rest of these Terms & Conditions. A waiver is only effective if it is in writing.

### 5. Prices

Our price lists, quotations, order confirmations and invoices are on the basis "errors and omissions excluded" (E&OE). Our prices exclude packaging, shipping and insurance on shipments.

### 6. Title & Risk

As soon as the purchase price is paid in full, you will become the legal owner of the Artwork and, upon such payment, you will be responsible for the Artwork and the risk of damage to or loss of the Artwork will pass to you. If an Artwork has been loaned to you then you are responsible for the Artwork and the risk of damage to or loss of the Artwork.

### 7. Ownership Of the Artwork Copyright

Copyright in the Artwork remains the property of the Artist - Lover's ART by Senses at Play- John & Bernadette McCall - currently residing in Key West, FL.

You may not produce or reproduce any image of the Artwork and may not, at any time, publish or submit for publication or reproduction any image of the Artwork to any third party, including any internet website for any purpose. You may not produce or duplicate any art work and place it in any other location than the designated location for your Better Than Sex Franchise. You may not reproduce and use the art in a second location if so contracted - each location is to be handled separately. If you dissolve your franchise the art work can not be sold where it will be in public viewing. If you sell your franchise with all contents the art stays with the location. If you breach any of your obligations under section 7 you agree that:

(a) the payment of damages will not be a sufficient remedy to compensate us or the Artist for your breach;

(b) we may, and the Artist may, apply to the court for an order to prevent you from continuing to breach your obligations under these Terms and Conditions; and

(c) we may, and the Artist may, contact the operator of any internet website on which the Artwork is being offered for sale or on which an image of the Artwork has been placed by you or at your direction, and instruct such operator, on your behalf, to remove any such offer for sale or image from any such internet website.

### 8. Liability of the Gallery

We make no representation or warranty of any kind whatsoever, express or implied, in connection with the Artwork. The Gallery and its employees, or agents exclude all liability (whether in contract, tort or otherwise), to the fullest extent permitted by applicable law, for any loss or damage that may result to you or a third party in connection with the Artwork.

### 9. Rights of Third Parties

No person other than you and the Gallery have any rights under these Terms and Conditions other than in respect of section 7 above which confers a benefit on the Artist and is intended to be enforceable by the Artist.

### 10. Payment

Unless otherwise agreed you may collect your order after receipt of cleared funds. We accept payment either by check, or bank transfer - or by credit card with an added 3.5% convenience fee.

### 11. Individual Commissions

If you order a specifically commissioned piece of Artwork it will be made to your individual specifications and is therefore bespoke & personalised.

This means that it can sometimes take months for your art to be created & delivered, although we will always try to deliver sooner. Delivery times are given by way of estimate only. The Gallery shall make reasonable efforts to supply the goods or services by the date agreed. No rights can be derived from the estimated delivery date, and neither can the Gallery be held liable for any delays in delivery caused by whatever reason.

If you need to amend or cancel your order for commissioned Artwork, you have the right to do so at any time up to 48 hours after you have placed your order. If you amend your order in any way more than 48 hours after you placed it, we reserve the right to charge you any costs we have incurred in relation to your order.

Bespoke Artwork cannot be returned after it has been commissioned. It is your responsibility to ensure that the product you have ordered will fit into your location. It is very important that you carefully measure where the piece is going to go. Please be sure to check these details in advance of placing your order.

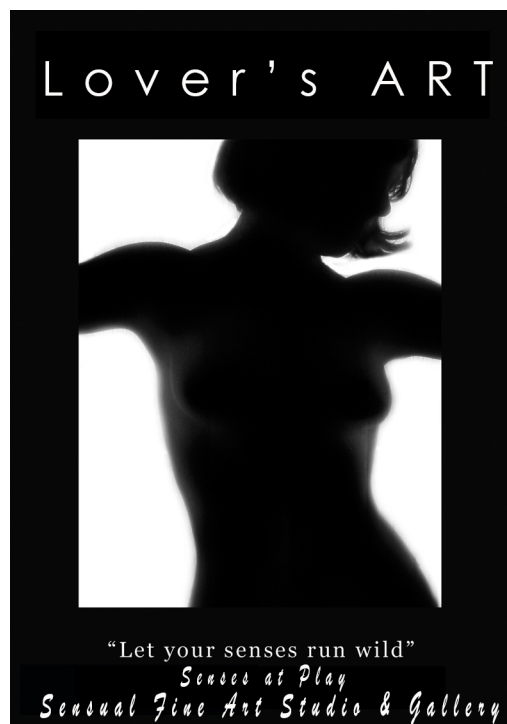
### 12. Privacy Policy

The Gallery will not disclose client information to any other individual or organization unless required to do so by law, or unless it is necessary to do so to obtain or validate payment of our invoices to you or to perform our contract of supply with you and the Artist, or unless it is covered by a confidentiality agreement. If you want us to remove your information from our files please contact us and we will do so insofar as the law permits.

## About Lover's ART

John & Bernadette McCall created "Lover's ART" as a way to express their passion for couple intimacy and desire.

- ◆ After photographing every style of sensual art - they found their style
- ◆ A style that can be viewed without turning away - and can be displayed in Galleries, Inn's and Restaurants as well as homes.
- ◆ They have been collected world-wide.



Lover's ART

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4.15.18

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