

TERMS & CONDITIONS

1. Introduction

1. This website can be accessed via **www.winsens.co.za**, related mobi-sites and software applications (the “**Website**”) and is owned and operated by Winsen’s Canvases.
2. These Terms and Conditions (“**Terms and Conditions**”) govern the ordering, sale and delivery of Goods, and the use of the Website.
3. These Terms and Conditions are binding and enforceable against every person that accesses or uses this Website (“**you**”, “**your**” or “**user**”), including without limitation each user who registers as contemplated below (“**registered user**”). **By using the Website you acknowledge that you have read and agree to be bound by these Terms and Conditions.**
4. The Website provides general information regarding Winsen’s Canvases as well as provides a platform to shop online for artist canvases (“**Goods**”).

2. Important Notice

1. These Terms and Conditions apply to users who are consumers for purposes of the Consumer Protection Act, 68 of 2008 (the “**CPA**”).
2. **These Terms and Conditions contain provisions that appear in similar text and style to this clause and which -**
 1. **may limit the risk or liability of Winsen’s Canvases; and/or**
 2. **may create risk or liability for the user; and/or**
 3. **may compel the user to indemnify Winsen’s Canvases; and/or**
 4. **serves as an acknowledgement, by the user, of a fact.**
3. **Your attention is drawn to these Terms and Conditions because they are important and should be carefully noted.**
4. If there is any provision in these Terms and Conditions that you do not understand, it is your responsibility to ask Winsen’s Canvases to explain it to you before you accept the Terms and Conditions or continue using the Website.
5. Nothing in these Terms and Conditions is intended or must be understood to unlawfully restrict, limit or avoid any right or obligation, as the case may be, created for either you or Winsen’s Canvases in terms of the CPA.
6. Winsen’s Canvases permits the use of this Website subject to the Terms and Conditions. By using this Website in any way, you shall be deemed to have

accepted all the Terms and Conditions unconditionally. You must not use this Website if you do not agree to the Terms and Conditions.

3. Warrantees and Return Policy

Canvas products and stretcher frames

1. Our stretcher frames are guaranteed for stability. We will replace our stretchers or re-stretch Artworks or Prints previously stretched by ourselves, at no cost to our clients in the event of warping.
2. Canvas supports are guaranteed for quality, and will be replaced if found to contain any surface defects.
3. We however ask our customers to take care of our products during storage and use, as we will not accept liability for deterioration of our products due to careless handling, cleaning or storage in corrosive or otherwise unsuitable environments.
4. Although Winsen's Canvases takes every precaution in ensuring the correct materials, manufacturing and priming techniques are employed in construction of all canvas and wood products, we cannot accept any responsibility for degradation of artworks as the result of improper manufacturing techniques or materials used in construction of the support structure.

Original Artworks and Prints

5. While we will take every reasonable precaution against loss or damage to Artworks and Prints during re-stretching, storage at our premises, or in transit to and from our clients, we cannot accept liability for loss or damage of Artworks or Prints.
6. We furthermore cannot accept any responsibility for loss or degradation of Artworks or Prints during re-stretching due to latent defects.
7. There is an implicit understanding that any undertaking by ourselves to re-stretch Artworks or Prints that are uneven or distorted as a result of previous damage, will be on a best effort basis, and that no guarantee will be made by ourselves to remove such defects.

Woodborer

8. Our products are manufactured from traditional products such as wood and canvas. Wood is susceptible to woodborer infestation during the entire service life of the products, and great care must be taken during storage and final use to circumvent this problem.

9. Our suppliers are large accredited importers of a variety of wood products, and they ensure that fumigation takes place after cutting during a kiln drying process. They furthermore fumigate the containers that are used to ship the wood to their warehouse in Johannesburg. Additional fumigation of our stock of uncut planks will be carried out on regular intervals at our own premises. We will receive fumigation certificates for these activities, and these can be forwarded to our clients on request.
10. We visually inspect the uncut planks and the final products at our premises to satisfy ourselves that our products are free from infestation.
11. If there is any evidence of woodborer infestation at the time of delivery of our products, we will replace them entirely at our own expense, and with no hassle. However, as woodborer infestation can occur at any time during the service life of our products, we cannot accept liability for infestation after sale to, and storage of our products at, our clients.
12. We therefore encourage our clients to inspect our products carefully on delivery. Small bore holes (1-3mm in diameter), with evidence of saw dust powder, is indication of active infestation. Such works should be isolated from other wooden products and either fumigated or relevant wooden pieces replaced depending on damage severity.
13. Acceptance on delivery will be interpreted as agreement that the products are free from infestation, or other defects, at such a time.

4. Use of the website

1. **By using the Website you warrant that you are 18 (eighteen) years of age or older and of full legal capacity. If you are under the age of 18 (eighteen) or if you are not legally permitted to enter into a binding agreement, then you may use the Website only with the involvement and supervision of your parent or legal guardian. If your parent or legal guardian supervises you and gives his/her consent, then such person agrees to be bound to these Terms and Conditions and to be liable and responsible for you and all your obligations under these Terms and Conditions.**
2. You agree that you will not in any way use any device, software or other instrument to interfere or attempt to interfere with the proper working of the Website. In addition, you agree that you will not in any way use any robot, spider, other automatic device, or manual process to monitor, copy, distribute or modify the Website or the information contained herein, without the prior written consent from an authorised Company representative (such consent is deemed given for standard search engine technology employed by Internet search websites to direct Internet users to this Website).

3. You may not use the Website to distribute material which is defamatory, offensive, contains or amounts to hate speech or is otherwise unlawful.
4. You may not in any way display, publish, copy, print, post or otherwise use the Website and/or the information contained therein without the express prior written consent of an authorised Company representative.

5. Conclusion of sales and availability of stock

1. Users may place orders for Goods, which Winsen's Canvases may accept or reject. Whether or not Winsen's Canvases accepts an order depends on the availability of Goods, correctness of the information relating to the Goods (including without limitation the price) and receipt of payment or payment authorisation by Winsen's Canvases for the Goods.
2. **NOTE: Winsen's Canvases will indicate the acceptance of your order by delivering the Goods to you or allowing you to collect them, and only at that point will an agreement of sale between you and Winsen's Canvases come into effect (the "Sale"). This is regardless of any communication from Winsen's Canvases stating that your order or payment has been confirmed. Winsen's Canvases will indicate the rejection of your order by cancelling it and, as soon as possible thereafter, refunding you for any amount already paid.**
3. Placing Goods in a shopping basket without completing the purchase cycle does not constitute an order for such Goods, and as such, Goods may be removed from the shopping basket if stock is no longer available. You cannot hold Winsen's Canvases liable if such Goods are not available when you complete or attempt to complete the purchase cycle at a later stage.
4. **You acknowledge that stock of all Goods on offer is limited. In the case of Goods for sale by Winsen's Canvases, Winsen's Canvases will take all reasonable efforts to monitor stock levels and ensure that when stock is no longer available, that offers thereof are discontinued on the Website. However, we cannot guarantee the availability of stock. When Goods are no longer available after placing an order, Winsen's Canvases will notify you and you will be entitled to a refund of the amount paid by you for such Goods.**

6. Payment

1. We are committed to providing secure online payment facilities. All transactions are encrypted using appropriate encryption technology.

2. Payment can be made for Goods via -

1. debit card;
2. credit card: where payment is made by credit card, we may require additional information in order to authorise and/or verify the validity of payment. In such cases we reserve the right to withhold delivery until such time as the additional information is received by us and authorisation is obtained by us for the amounts. If we do not receive authorisation your order for the Goods will be cancelled. **You warrant that you are fully authorised to use the credit card supplied for purposes of paying the Goods. You also warrant that your credit card has sufficient available funds to cover all the costs incurred as a result of the services used on the Website;**
3. direct bank deposit or electronic funds transfer: if you pay via direct bank deposit or electronic funds transfer, payment must be made within 5 (five) days of placing your order. Winsen's Canvases will not accept your order if payment has not been received;

7. Errors

We shall take all reasonable efforts to accurately reflect the description, availability, purchase price and delivery charges of Goods on the Website. However, should there be any errors of whatsoever nature on the Website (which are not due to our gross negligence), we shall not be liable for any loss, claim or expense relating to a transaction based on any error, save – in the case of any incorrect purchase price – to the extent of refunding you for any amount already paid, or otherwise as set out in the Returns Policy.

8. Privacy policy

1. We respect your privacy and will take reasonable measures to protect it, as more fully detailed below.
2. Should you decide to purchase products on the Website, we may require you to provide us with personal information which includes but is not limited to -
 1. your name and surname;
 2. your email address;
 3. your physical address;
 4. your mobile number;
3. Should your personal information change, please inform us and provide us with updates to your personal information as soon as reasonably possible to enable us to update your personal information.
4. You may choose to provide additional personal information to us, in which event you agree to provide accurate and current information, and not to impersonate or

misrepresent any person or entity or falsely state or otherwise misrepresent your affiliation with anyone or anything.

5. Subject to clause 8.6 below, we will not, without your express consent:
 1. use your personal information for any purpose other than as set out below:
 1. in relation to the ordering, sale and delivery of Goods;
 2. to contact you regarding current or new Goods or services or any other goods offered by us or any of our divisions and/or partners (unless you have opted out from receiving marketing material from us);
 3. to inform you of new features, special offers and promotional competitions offered by us or any of our divisions and/or partners (unless you have opted out from receiving marketing material from us); and
 4. to improve your experience on our Website by, inter alia, monitoring statistical non-personal browsing habits, and to transact with us; or
 2. disclose your personal information to any third party other than as set out below:
 1. to our employees and/or third party service providers who assist us to interact with you via our Website, email or any other method, for the ordering of Goods or when delivering Goods to you, and thus need to know your personal information in order to assist us to communicate with you properly and efficiently;
 2. to our divisions and/or partners (including their employees and/or third party service providers) in order for them to interact directly with you via email or any other method for purposes of sending you marketing material regarding any current or new goods or services, new features, special offers or promotional items offered by them (unless you have opted out from receiving marketing material from them);
 3. to our suppliers in order for them to liaise directly with you in the event of you submitting a warranty claim regarding any Goods you have purchased which requires their involvement; and
6. We will ensure that all of our employees, third party service providers, divisions and partners (including their employees and third party service providers) having access to your personal information are bound by appropriate and legally binding confidentiality and non-use obligations in relation to your personal information.
7. We will -
 1. treat your personal information as strictly confidential;
 2. take appropriate technical and organisational measures to ensure that your personal information is kept secure and is protected against unauthorised or

unlawful processing, accidental loss, destruction or damage, alteration, disclosure or access;

3. provide you with access to your personal information to view and/or update personal details;
 4. promptly notify you if we become aware of any unauthorised use, disclosure or processing of your personal information;
 5. provide you with reasonable evidence of our compliance with our obligations under this policy on reasonable notice and request; and
 6. upon your request, promptly return or destroy any and all of your personal information in our possession or control.
8. We will not retain your personal information longer than the period for which it was originally needed, unless we are required by law to do so, or you consent to us retaining such information for a longer period.
9. **Winsen's Canvases undertakes never to sell or make your personal information available to any third party other than as provided for in this policy, unless we are compelled to do so by law. In particular, in the event of a fraudulent online payment, Winsen's Canvases reserves the right to disclose relevant personal information for criminal investigation purposes or in line with any other legal obligation for disclosure of the personal information which may be required of it.**
10. **Whilst we will do all things reasonably necessary to protect your rights of privacy, we cannot guarantee or accept any liability whatsoever for unauthorised or unlawful disclosures of your personal information, whilst in our possession, made by third parties who are not subject to our control, unless such disclosure is as a result of our gross negligence.**

9. Changes to these terms and conditions

1. Winsen's Canvases may, in its sole discretion, change any of these Terms and Conditions at any time. It is your responsibility to regularly check these Terms and Conditions and make sure that you are satisfied with the changes. Should you not be satisfied, you must not place any further orders on, or in any other way use, the Website.
2. Any such change will only apply to your use of this Website after the change is displayed on the Website. If you use the Website after such amended Terms and Conditions have been displayed on the Website, you will be deemed to have accepted such changes.

10. Electronic communications

1. When you visit the Website or send emails to us, you consent to receiving communications from us or any of our divisions or partners electronically in accordance with our privacy policy as set out in clause 8 above.

11. Ownership and copyright

1. The contents of the Website, including any material, information, data, software, icons, text, graphics, lay-outs, images, sound clips, advertisements, video clips, trade names, logos, trade-marks, designs and service marks which are displayed on or incorporated in this Website (“**Website Content**”) are protected by law, including but not limited to copyright and trade mark law. The Website Content is the property of Winsen’s Canvases, its advertisers and/or sponsors and/or is licensed to Winsen’s Canvases.
2. You will not acquire any right, title or interest in or to the Website or the Website Content.
3. Any use, distribution or reproduction of the Website Content is prohibited unless expressly authorised in terms of these Terms and Conditions or otherwise provided for in law.
4. Where any of the Website Content has been licensed to Winsen’s Canvases or belongs to any third party, your rights of use will also be subject to any terms and conditions which that licensor or third party imposes from time to time and you agree to comply with such third party terms and conditions.

12. Disclaimer

1. **The use of the Website is entirely at your own risk and you assume full responsibility for any risk or loss resulting from use of the Website or reliance on any information on the Website.**
2. Whilst Winsen’s Canvases takes reasonable measures to ensure that the content of the Website is accurate and complete, Winsen’s Canvases makes no representations or warranties, whether express or implied, as to the quality, timeliness, operation, integrity, availability or functionality of the Website or as to the accuracy, completeness or reliability of any information on the Website.
3. **Winsen’s Canvases disclaims liability for any damage, loss or liability, whether direct, indirect or consequential in nature, arising out of or in connection with your access to or use of the Website and/or any content therein unless otherwise provided by law.**
4. **Although Goods sold from the Website may, under certain specifically defined circumstances, be under warranty, the Website itself and all information provided on the Website is provided “as is” without warranty of any kind, either express or implied, including, but not limited to, the**

implied warranties of merchantability, fitness for a particular purpose, completeness, or non-infringement, as may be allowed in law.

5. Any views or statements made or expressed on the Website are not necessarily the views of Winsen's Canvases, its directors, employees and/or agents.
6. **In addition to the disclaimers contained elsewhere in these Terms and Conditions, Winsen's Canvases also makes no warranty or representation, whether express or implied, that the information or files available on the Website are free of viruses, spyware, malware, trojans, destructive materials or any other data or code which is able to corrupt, destroy, compromise, disrupt, disable, harm, jeopardise or otherwise impede in any manner the operation, stability, security functionality or content of your computer system, computer network, hardware or software in any way. You accept all risk associated with the existence of such viruses, destructive materials or any other data or code which is able to corrupt, compromise, jeopardise, disrupt, disable, harm or otherwise impede in any manner the operation or content of a computer system, computer network, any handset or mobile device, or your hardware or software, save where such risks arise due to the gross negligence or wilful misconduct of Winsen's Canvases, its employees, agents or authorised representatives. Winsen's Canvases thus disclaims all liability for any damage, loss or liability of any nature whatsoever arising out of or in in connection with your access to or use of the Website.**

13. Limitation of liability

1. **Winsen's Canvases cannot be held liable for any inaccurate information published on the Website and/or any incorrect prices displayed on the Website, save where such liability arises from the gross negligence or wilful misconduct of Winsen's Canvases, its employees, agents or authorised representatives. You are encouraged to contact us to report any possible malfunctions or errors by way of email to info@winsens.co.za.**
2. **Winsen's Canvases shall not be liable for any direct, indirect, incidental, special or consequential loss or damages which might arise from your use of, or reliance upon, the website or the content contained in the website; or your inability to use the website, and/or unlawful activity on the website and/or any linked third party website.**
3. **You hereby indemnify Winsen's Canvases against any loss, claim or damage which may be suffered by yourself or any third party arising in any way from your use of this website and/or any linked third party website.**

14. Availability and termination

1. We will use reasonable endeavours to maintain the availability of the Website, except during scheduled maintenance periods, and reserve the right to discontinue providing the Website or any part thereof with or without notice to you.
2. **Winsen's Canvases may in its sole discretion terminate, suspend and modify this Website, with or without notice to you. You agree that Winsen's Canvases will not be liable to you in the event that it chooses to suspend, modify or terminate this Website other than for processing any orders made by you prior to such time and to the extent possible.**
3. **If you fail to comply with your obligations under these Terms and Conditions, including any incident involving payment of the price of an order for any Goods, and you fail to remedy such failure within 7 (seven) days of notice to you by us, this may (in our sole discretion) lead to a suspension of your access to the Website without any prejudice to any claims for damages or otherwise that we may have against you.**

15. Governing law and jurisdiction

1. These Terms and Conditions and our relationship and/or any dispute arising from or in connection with these Terms and Conditions shall be governed and interpreted in accordance with the laws of the Republic of South Africa. Your continued use of the Website will constitute your consent and submission to the jurisdiction of the South African courts regarding all proceedings, transactions, applications or the like instituted by either party against the other, arising from any of these Terms and Conditions.
2. In the event of any dispute arising between you and Winsen's Canvases, you hereby consent to the non-exclusive jurisdiction of the High Court of the Republic of South Africa (Gauteng Division, Pretoria) notwithstanding that the quantum in the action or proceedings may otherwise fall below the monetary jurisdiction of that court.
3. Nothing in this clause 15 or the Terms and Conditions limit your right to approach any court, tribunal or forum of competent jurisdiction in terms of the CPA.

16. Notices

1. Winsen's Canvases hereby selects **Unit 3, Block C, Gallagher Corner, 23 Richard's Drive, Midrand, Gauteng** as its address for the service of all formal notices and legal processes in connection with these Terms and Conditions ("nominated address"). Winsen's Canvases may change this address from time to time by updating these Terms and Conditions.

2. You hereby select the address specified on the Goods order form as your nominated address, but you may change it to any other physical address by giving Winsen's Canvases not less than 7 days' notice in writing.
3. Notices must be sent either by hand, prepaid registered post, telefax or email and must be in English. All notices sent -
 1. by hand will be deemed to have been received on the date of delivery;
 2. by prepaid registered post, will be deemed to have been received 10 days after the date of posting;
 3. by telefax before 16h30 on a business day will be deemed to have been received, on the date of successful transmission of the telefax. All telefaxes sent after 16h30 or on a day which is not a business day will be deemed to have been received on the following business day; and
 4. by email will be deemed to have been on the date indicated in the "Read Receipt" notification. **ALL EMAIL COMMUNICATIONS BETWEEN YOU AND US MUST MAKE USE OF THE "READ RECEIPT" FUNCTION** to serve as proof that an email has been received.

17. Winsen's Canvases information

1. For the purposes of the ECT Act, Winsen's Canvases's information is as follows:
 1. **Full name:** Winsen's Canvases CC
 2. **Main business:** **Winsen's Canvases specialises in the manufacturing of Artist's Canvases and Custom Hand-Gilded Frames, with the capability of re-stretching original artworks, including the stretching of canvas prints.**
 3. **Physical address for receipt of legal service:** Physical Address: Unit 3, Block C, Gallagher Corner, 23 Richard's Drive, Midrand, Gauteng.
Postal address: P.O. Box 2278, Halfway House, 1685
 4. **Office bearers:** Gavin van Winsen
 5. **Phone number:** 0113150565
 6. **Official email address:** info@winsens.co.za

18. General

1. Winsen's Canvases may, in its sole discretion, at any time and for any reason and without prior written notice, suspend or terminate the operation of the Website or the user's right to use the Website or any of its contents subject to us processing any orders then already made by you.
2. You may not cede, assign or otherwise transfer your rights and obligations in terms of these Terms and Conditions to any third party.

3. Any failure on the part of you or Winsen's Canvases to enforce any right in terms hereof shall not constitute a waiver of that right.
4. If any term or condition contained herein is declared invalid, the remaining terms and conditions will remain in full force and effect.
5. No variation, addition, deletion, or agreed cancellation of the Terms and Conditions will be of any force or effect unless in writing and accepted by or on behalf of the parties hereto.
6. No indulgence, extension of time, relaxation or latitude which any party (the "**grantor**") may show grant or allow to the other (the "**grantee**") shall constitute a waiver by the grantor of any of the grantor's rights and the grantor shall not thereby be prejudiced or stopped from exercising any of its rights against the grantee which may have arisen in the past or which might arise in the future.
7. These Terms and Conditions contain the whole agreement between you and Winsen's Canvases and no other warranty or undertaking is valid, unless contained in this document between the parties.