

## GENERAL TERMS & CONDITIONS OF PURCHASE ERIK BIJZET SCULPTURE AND WORKS OF ART B.V.

### General provisions

#### **Article 1 – General**

1. The General Terms and Conditions of Purchase contained herein (“**General Conditions**”) shall apply to all Agreements (as defined hereafter) concluded between Erik Bijzet Sculpture and Works of Art B.V. or any affiliate thereof (“**Client**”) and any (prospective) supplier (“**Supplier**”) of Products.
2. “**Products**” shall mean all sculptures and works of art offered for sale or consignment by Supplier to Client. “**Confirmation**” shall mean the written confirmation by Client to purchase the Products and/or to accept the Products for consignment described therein.
3. An agreement (“**Agreement**”) means any agreement relating to Products concluded between Client and Supplier and which shall be entered into if and when the Client has confirmed the Agreement by means of the Confirmation. The Agreement could relate to (i) the purchase of Products by the Client and/or (ii) the acceptance of the Product for consignment by the Supplier as consignor and the Client as consignee.
4. Upon entering into an Agreement with Client, Supplier is deemed to have accepted the General Conditions as an integral part of the Agreement. Unless Client expressly agrees otherwise in writing, the General Conditions prevail over any conflicting or additional terms or conditions stipulated or referred to by Supplier.
5. These General Conditions apply without limitation to all persons and legal entities affiliated to Client and all third parties involved in carrying out an Agreement by Client and who are or may be liable in relation thereto. These General Conditions constitute for these persons, legal entities and third parties an irrevocable third-party clause within the meaning of Section 6:253 of the Dutch Civil Code, without financial consideration, and may be invoked by these persons, legal entities and third parties.
6. Client is entitled to amend the General Conditions from time to time.

#### **Article 2 – Prices**

1. Client shall pay to the Supplier the price in the amounts and according to the payment schedule set forth in the Agreement. Any changes to the prices require both Parties’ written consent.
2. Unless expressly described otherwise in the Agreement, all prices are quoted inclusive of taxes and costs of packaging, carriage and transport insurance.

#### **Article 3 – Postponement of delivery and suspension of the Agreement**

1. Until five (5) days prior to the delivery date, the Client shall be entitled to postpone the delivery of the Products for a reasonable period of time by providing the Supplier with a written statement to that effect. In the aforementioned statement, the Client shall indicate the period of time for which the delivery term will be extended.
2. The Client may (i) suspend at any time the performance of the Agreement by giving the Supplier a 5-day prior written notice and (ii) require the Supplier to recommence the Agreement by giving the Supplier a 10-day prior written notice. The Supplier may demand reimbursement of the reasonable additional costs which were verifiably incurred as a result of the suspension and could not be prevented. The Supplier is obliged to provide the client immediately with a list of the costs incurred or to be expected. Should the Client not require the recommencement of the Agreement within the term of six (6) months, the Supplier will be entitled to withdraw from the Agreement by giving the Client a written notice. All claims for damages due to suspension are excluded.

#### **Article 4 – Supplier’s representations and warranties**

1. Supplier represents and warrants to Client on a continuous basis that at all relevant times (including at the time of consignment or sale) that (i) the Supplier either is the rightful, full owner of the Product or is validly authorised by the owner to offer the Product for sale or consignment; and (ii) that the Product is free from any third party rights, claims or potential claims (including, without limitation, by governments and governmental agencies).
2. Supplier represents and warrants to Client that the Product offered for sale or consignment is 100% authentic, meaning it’s not (wholly or partially) fake and/or refurbished and/or a counterfeit. For the purpose of this clause, counterfeit shall mean a Product that in Client’s reasonable opinion is a modern imitation made after 1870 created to deceive as to authorship, origin, date, age, period, culture, or source, and where the correct description of such matters is not reflected by the description provided by Supplier at the moment of entering into the Agreement. No Product shall be considered a counterfeit by reason only of any damage and/or restoration and/or modification work of any kind (including repainting or over-painting and the reconstruction of parts of the object). In addition, no object shall be considered a counterfeit if either the description was in accordance with the generally accepted opinion(s) of scholar(s) or expert(s) at the date of the

Agreement and/or if the description indicated that there was a conflict of such opinions, or the only method of establishing at the date of the sale that the object was a counterfeit would have been by means of processes not generally available or accepted, unreasonably expensive or impractical to use or likely to have caused damage to the object or likely (in Client's opinion) to have caused loss of value of the object, or there has been no material loss in value of the object had it been in accordance with its description.

3. Supplier represents and warrants that it has provided Client in writing with all information concerning the Product's provenance, condition and restoration and has informed Client about any concerns the Client may have or that have been expressed by third parties concerning its ownership, condition, authenticity, attribution and export or import history. In so far the Supplier, after the Agreement has been concluded, becomes aware of any information that causes Supplier to question the authenticity of the Product, it shall notify Client without delay, but under any circumstance within 14 calendar days of becoming aware of such information.

4. Supplier represents and warrants that the Product was lawfully imported into the country it is in and was lawfully and permanently exported as required by the laws of any country it was located at any time, required declarations upon the export and import have been properly and truthfully made, and any duties on the export or import of the item have been paid.

5. Supplier represents and warrants that it shall cooperate with anti-money laundering legislation, meaning that (among other things) Client is required to verify the identity of Supplier.

6. Upon any breach of the Supplier's representations or warranties, Client is entitled to (i) rescind the Agreement with immediate effect, without being obliged to pay any compensation, and/or (ii) to receive full indemnification from the Supplier of any loss or damages (including but not limited to the costs for an expert engaged by Client and reasonable attorney fees) suffered by Client as result from such breach. The Client's further or other rights under statutory law shall remain unaffected.

#### **Article 5 – Liability**

1. The Supplier shall be liable according to statutory Netherlands law.

2. The Client shall not be liable for any direct, consequential or indirect damage sustained by the Supplier, its staff and/or third parties that it engages in in connection with the performance of the Agreement, unless the damage was caused by an intentional act or omission or wilful recklessness on the part of the Client.

#### **Article 6 – Force Majeure**

Neither party shall be or liable to the other party for any delay or failure to fulfil any term or condition of an Agreement or other obligation to the extent such delay or failure is caused by or results from any other event which is beyond the control of Client, including but not limited to: (i) pandemics, (ii) strikes or labour disturbances or (iii) transportation issues.

#### **Article 7 – Governing Law / Disputes**

1. Any Agreements and documents to which these General Conditions apply shall be exclusively governed by the laws of the Netherlands.

2. Any disputes arising from any agreements or documents to which these General Conditions apply shall be exclusively submitted to the competent courts of Amsterdam.

3. Applicability of the United Nations Convention on the International Sale of Goods (CISG, 1980) is explicitly excluded.

#### **Article 8 - Miscellaneous**

1. Supplier shall not assign any rights under the Agreement in whole or in part to any third party without the prior written consent of Client.

2. Supplier gives its irrevocable and unconditional consent to Client to publish the Product on its website (or elsewhere). Client is entitled to publish articles or books pertaining to research done by Client on Products or objects which are (or have been) the subject of Services provided by Client.

#### **Provisions relating to the purchase of Products by the Client only**

#### **Article 9 – Inspection before delivery**

1. Client shall at all times be entitled to inspect the Products if it considers this necessary before delivery, or to cause the same to be done. Supplier shall make the Product available for Client's inspection at the location designated by Client for that purpose.

2. The inspection only extends to the provisional judgment of the Client whether the external condition of the Product is in accordance with the Agreement.

## **Article 10 – Delivery and Risk**

1. Delivery shall take place according to the method, time and place indicated by the Client in the Confirmation. If Supplier is obliged to arrange carriage of the Products to the Client, the Supplier shall ensure packaging of the highest standard and suitable transport so that the Products reach their destination in good condition.
2. Supplier shall bear the risk of loss, theft, accidental damage to or destruction of a Product until delivery to Client. In case Client is obliged to pick up the Product at Supplier's premises, Supplier bears the risk of loss, theft, accidental damage to or destruction of the Product until the handover of the Product from Supplier to Client.

## **Article 11 – Payment**

1. Unless otherwise agreed in writing, the Client shall not owe payment until the Products have been delivered to the Client. The Supplier shall be entitled to issue an invoice once the delivery is complete in accordance with the Agreement.
2. The term of payments is 30 (thirty) days after the Client has received the invoice, unless otherwise agreed upon in writing.
3. No payment nor partial acceptance or use shall constitute acceptance by the Client of the Product(s) or a waiver by the Client of any claims against the Supplier.

## **Provisions relating to consignment only**

### **Article 12 – Consignment**

1. In the event that Supplier offers a Product through consignment, the terms of the consignment agreement between Supplier (as consigner) and Client (as consignee) will be included in the Confirmation and these General Conditions.
2. Under the consignment, Supplier grants the exclusive right and title to Client to display, market, sell and deliver the Product on behalf of Supplier to any third party buyer. Client will act as intermediate between Supplier and the (potential) third party buyer of the Product only, and Supplier remains the owner of the Product and remains, unless agreed otherwise in writing, responsible for all of the expenses of the Product until sold and delivered to a third party buyer. Under any circumstance, the risk of loss, theft, accidental damage to or destruction of a Product remains with Supplier.
3. Client is entitled to a commission in case a consigned Product is sold to a third party buyer. The commission to which the Client is entitled shall be set out in the Confirmation. Supplier hereby authorizes Client to invoice the third party buyer and to collect the purchase price on its behalf. Upon receipt of the purchase price the Client, after deduction of the commission and, as the case may be, any expenses made by Client, transfer within 30 days the remainder of the purchase price to Supplier. Supplier expressly acknowledges that Client is authorized to receive the purchase price on behalf of Supplier, and hereby irrevocably approves that Client is allowed to settle its commission and, as the case may be, any the expenses made.
4. Unless expressly agreed otherwise, the consignment takes place on an exclusive basis, meaning that the Client is the sole party allowed to market and offer the Product for sale to third parties.