

GENERAL CONDITIONS FOR ART SERVICES

1. GENERAL – SCOPE OF APPLICATION OF THE GENERAL CONDITIONS

- i. Unless otherwise specifically agreed in writing, all offers or services between SGS Art Services (hereinafter the “Company”) and the Client in relation to Art Services as defined below (hereinafter the “Services”) shall be governed by these General Conditions for Art Services (hereinafter the “General Conditions”). The Client’s specific terms and conditions are hereby excluded unless the Company has explicitly consented in writing to their application. Within the scope of ongoing business relations, these General Conditions shall also apply to additional and follow up orders.
- ii. Services are initiated only after a completed order has been approved and signed by an authorized individual for the Client and for the Company. The Company reserves the right to re-quote an order if its acceptance by the Client does not occur within thirty (30) days after issuance. A separate order amendment will be prepared and signed by both Parties whenever there is a new or changed scope of deliverables or when a change in project assumptions has a material impact on costs including estimates. Unless the Company receives prior written instructions to the contrary from the Client, no other party or entity is entitled to give instructions, particularly on the scope of service or the delivery of the reports resulting there from. The Client hereby irrevocably authorizes the Company to deliver condition reports, as defined below, to a third party where so instructed by the Client or, at its discretion, where it implicitly follows from circumstances, usage or practice.

2. SCOPE OF SERVICES – CONTENT AND TYPE OF THE SERVICE PROVISIONS – SUBCONTRACTORS

- i. These General Conditions cover the following Services:
 - a. Examination, inspection and technical analysis of any kind of works of arts and cultural objects (hereafter referred to as the “Artworks”) for the purposes of documenting their material characteristics and/or determining their state of conservation. These services may encompass, but are not limited to, Transport Condition Report services (“TCR”); Registrar Condition Reports services (“RCR”); Sale Condition Report services (“SCR”) and Technical Examination Report services (“TER”) as defined hereunder;
 - b. Inventory services of Artwork collections;
 - c. Audit and certification services on the basis of national or international rules and standards in the field of cultural heritage, the art market and other related domains;
 - d. Consulting services.
- ii. SGS Art Services shall provide the Services, with all reasonable care, skill and diligence as expected from a competent body experienced in the field of the inspection of Artworks.
- iii. All Services will result in the issuance of a report or a certificate, as the case may be (hereinafter referred to as the “Deliverable”).
- iv. The Company, in its capacity of an independent party, provides information which derives from the results of the Services carried out within the limits of the specific instructions,

information received from the Client or, in the absence of such instructions, within the terms of any standard order form or standard specification sheet of the Company or any relevant commonly accepted professional usage and practice.

- v. The Client understands and agrees that reliance on any Deliverables issued by the Company is limited to the facts as recorded by it therein and represents the Company’s inspection and analysis of facts, information and samples, or other material, in existence at the time of its intervention only. The Client is responsible for exercising its own independent judgment with regard to the information or results provided by the Company. The Company does not warrant the quality, outcome or effectiveness or appropriateness of any decision or action taken on the basis of the Deliverables issued by the Company.
- vi. In providing the Services, the Company does not take the place of a transportation company, an insurer or an expert with respect to the quality, the authenticity, the merchantability, the value or the transportability of the Artwork. Should the Company receive documents reflecting engagements contracted between the Client and third parties or third parties documents, such as, but not limited to, copies of sales contracts, transport certificates or contracts, letters of credits, they are considered to be for information only, and do not extend or restrict the scope of the Services or the obligations accepted by the Company.
- vii. The Company may delegate the performance of all or part of the Services to an agent or subcontractor and the Client

authorizes the Company to disclose all information necessary for such performance providing that such subcontracting shall not relieve the Company of its responsibility and liability for any work performed by its subcontractor.

3. CLIENT'S RESPONSIBILITIES

The Client shall:

- i. Ensure that all requested information from the order form along with any required documentation are duly provided in due time to the Company, and in any event, not later than 48h prior to the desired intervention to enable the required Services to be performed.
- ii. Ensure that all Artworks to be inspected are physically accessible and unframed in order to enable the Company to perform the Services. Should such prerequisites not be met before the starting of the Services, the Company reserves the right to issue a report with reserves.
- iii. When applicable, procure all necessary access for the Company's representatives to the premises where the Services are to be performed and take all necessary steps to eliminate or remedy any obstacles to, or interruptions in, the performance of the Services. The Company shall not be liable for any delay in performing the Services due to such circumstances.
- iv. Promptly Inform the Company of any changes to the scope of Services in order to enable the Company to issue a new quote and submit it to the Client for prior acceptance.
- v. Not use the Deliverables in such a manner as to bring the Company into disrepute and not make any statement on the use of the Deliverables that the Company may consider as misleading or unauthorized.
- vi. Draw the Company's attention to any special characteristics and degree of fragility of the Artwork.

- vii. In case the Client is not the owner of the Artwork subject to the Services, to obtain prior consent from the author or the owner of the Artwork or their legal representative to mandate the Company to perform the Services.
- viii. Ensure that any Artwork provided by the Client to the Company for inspection at Company's site will be shipped pre-paid and will be collected or disposed of by the Client, at its own costs, within thirty (30) days after the date of inspection unless alternative arrangements are made by the Client (the "Due Date") following which storage costs will be charged to the Client from the due date up to the date at which the Client will dispose of the Artworks.

4. CLIENT'S REPRESENTATIONS AND WARRANTIES

The Client represents and warrants:

- i. That it has obtained all necessary authorization and consent from any third party, including the author or the owner of the Artworks or his legal representatives, to (i) submit the Artworks to inspection and (ii) to have the Artworks unframed or unpacked, if requested by the Company. In such case, the Company shall neither be responsible for any damages caused by such operation nor for re-mounting the frame as originally mounted nor repacking as originally packed.
- ii. That any information it supplies to the Company is, accurate, complete and not misleading in any respect. The Client hereby acknowledges that (i) the Company will rely on such information, samples and materials (without the duty to confirm or verify the accuracy or completeness thereof) in order to provide the Services and that (ii) the Company shall not be liable for any incorrect results arising from unclear, erroneous, incomplete, misleading or false information provided to the Company.

- iii. That any samples or materials provided by the Client to the Company will not infringe any legal rights, including intellectual property rights, of any third party.
- iv. In the event that the Client and the beneficiary of the Services are separate legal entities or individuals, The Client warrants that the other third parties having an interest in the Services accept the terms and conditions contained herein.

5. BILLING – REMUNERATION – DUE DATE – CANCELLATION FEES

- i. As compensation for the Services hereunder, the Client agrees to pay the Company pursuant to the fee schedule set forth in each order.
- ii. Unless otherwise specified in the Order: (i) all payments for RCR, TCR and SCR are due within 30 days from the invoice date; (ii) all payments for TER are due upfront before the commencement of the Services. The Company reserves the right not to start the TER Services until full payment has been received.
- iii. The Company reserves the right to review and amend its charges on a quarterly basis.
- iv. All fees quoted cover all stages leading to completion of the services and are based on the initial details supplied by the Client prior to providing the relevant fees. The Company reserves the right, subject to prior notification, to charge for additional hourly or mandays fees should any of the instructions change or are found to be not in accordance with the initial details supplied to Company.
- v. All fees do not include expenses incurred by the Company in carrying out the Services. Such expenses include, but are not limited to mileage, travel costs, meals, ground transportation and lodging.
- vi. All fees and costs do not include taxes (including but not limited to value added taxes or their equivalent), levies, imposts, stamp duties, charges or withholding

taxes and all liabilities with respect thereto of whatsoever nature or kind (collectively referred to as "Taxes") which will be invoiced in accordance with applicable local law. Any and all payments made by the Client shall be made free and clear of, and without withholding or deduction of any Taxes, unless such withholding or deduction is required by applicable law or/and by applicable double tax treaties. If requested, the Client shall promptly provide the Company with evidence of such payment and copies of all documentation submitted with each such payment. The Parties shall use their best endeavors to obtain a refund of the deductions or a recovery of any applicable tax and will support each other in their obligations in this respect. Any tax refunded will be reimbursed according to entitlement.

- vii. If the Client cancels or postpones an order between five (5) business days and two (2) business days before the scheduled inspection date, an administrative fee equivalent to 20% of the total order value will be charged. In addition, the Client shall reimburse the Company for all the expenses actually incurred in connection with the cancelled or postponed Services.
- viii. If the Client cancels or postpones an order less than 48 hours before the scheduled inspection date, an administrative fee equivalent to 50% of the total contract value will be charged. In addition, the Client shall reimburse the Company for all the expenses actually incurred in connection with the cancelled or postponed Services.
- ix. If the Client cancels or postpones an order after the commencement of the Services, the Company will recover payment for all Services rendered up to the time of the cancellation or postponement notice along with all expenses incurred by the Company. In addition, the Client understands that it

will remain liable to pay to the Company, fifty percent (50%) of the fees corresponding to the unperformed Services.

- x. If the Company is unable to perform all or part of the Services for any cause whatsoever outside the Company's control including failure by the Client to comply with any of its obligations provided herein, the Company shall nevertheless be entitled to payment of: (i) the amount of non refundable expenses incurred by the Company; and (ii) a proportion of the agreed fee equal to the proportion of the Services effectively carried out.

6. CONFIDENTIALITY

- i. Confidential Information shall mean any information disclosed in whatever format by a party to the other or any information acquired or received by one party within the scope of the performance of the Services.
- ii. Each of the parties shall not disclose or use any of the confidential information for any other purpose whatsoever than the provision of the Service, unless the Client has authorized the Company to disclose or use the Confidential Information otherwise in writing.
- iii. The Company shall only make the Client's Confidential Information accessible to those employees or subcontractors for which disclosure or access to the Confidential Information is necessary for the provision of the Services and who are also subject to a corresponding duty of non disclosure.
- iv. Unless otherwise agreed, the duties of non disclosure pursuant to this section shall apply for a period of five (5) years from the date on which the Client made the Confidential Information in question accessible to the Company.
- v. The opinions, inspection results,

calculations, technical analysis results (hereinafter the "Results") prepared by the Company shall not be published, used, copied or replicated for distribution to any other person or entity other than the Client and the Company, including the Company's Affiliates, or otherwise publicly disclosed without the prior written consent of the Client during the non disclosure period set forth above providing however that, subject to the Confidential Obligations provisions contained herein, nothing shall prohibit the Company from maintaining copies of the reports and the Results in its database in accordance with its document and record retention policies as may be required by law.

- vi. The Confidentiality undertakings shall not apply to any information (i) which was already known to Company or generally known or available at the time of their disclosure to the Company; (ii) which subsequently becomes evident or generally known without the Company being responsible for it; (iii) for which the Client has consented to their being disclosed to any third party. An obligation of non disclosure does not apply if the Company (i) is asked to disclose confidential information by the courts or if the Company is obliged to do so by law providing that the Company has notified the Client in writing of such requirement prior to any disclosure in order to allow the Client to seek a protective order or similar relief in the Client's sole and absolute discretion; or (ii) if it is ruled in these General Conditions or agreed elsewhere that no duty of non disclosure applies.

7. INTELLECTUAL PROPERTY

- i. Intellectual property shall mean all patents, copyright and related rights, trademarks, rights in goodwill, rights in computer software and databases including know how and trade secrets, methods and protocols for the Services.

- ii. Each Party exclusively owns all rights to its Intellectual property whether created before or after the performance of the Services.
- iii. The names, trademarks and copyrights of the Company shall not be used by the Client except solely to the extent that the Client obtains the prior written consent of the company and then only in the manner prescribed by the Company.
- iv. All copyrights to the opinions, test results, presentations prepared by the Company as part of the Services shall vest to the Company (hereinafter collectively referred to as the "Results"). However, the Client is being granted a non exclusive, non transferable right, which may not be sublicensed, to use the Results and the Deliverables which have been issued by the Company for the purposes for which they are destined according to these General Conditions. The Client shall not change such Results in any way. Complete or partial publication of such Results shall require the Company's prior agreement.
- v. Nothing in the performance of the Services or the issuance of the Deliverables shall convey any rights of ownership or license whatsoever to the Company's intellectual property inspection methods, training materials and best practices manual nor to the Company's protocols or know-know developed by the Company and used to carry out the Services and to issue the Deliverables.

8. LIMITATION OF LIABILITY

- i. Except for claims for personal injury, property damage arising out of the Company's willful misconduct or gross negligence and or the Company's infringement of intellectual property rights or confidentiality, the Company shall not be liable to the Client for any breaches, disputes, controversies or claims arising under or in

connection with the Services provided hereunder (whether any such breach, dispute, controversies or claim is based upon contract, tort, statute, equity or other legal theory).

- ii. Subject to clause 8 (i), the Company's maximum liability shall in no event exceed the total amount of the fees paid by the Client under the applicable order from which the breach, dispute, controversies or claim arose.
- iii. The Client shall further defend, indemnify and hold the Company and its affiliates and their respective employees, directors, officers, principals (partners, shareholders or holders of an ownership interest, as the case may be) and agents harmless against any and all claims, demands or causes of action of every kind and character arising from or in connection with (a) the Client's breach of any representations and warranties as per clause 4 hereunder and (b) any claims or suits arising out as a result of any misuse or unauthorized use of any Deliverables or Results issued by the Company or any Intellectual property right belonging to the Company pursuant to these General Conditions.
- iv. Neither Party shall have any liability to the other for indirect or consequential loss or damage of any kind including, but not limited to: loss of profits, loss of production, loss of business or costs incurred from business interruption, loss of revenue, loss of opportunity, loss of contracts, loss of expectation, loss of use, loss of goodwill or damage to reputation, loss of anticipated savings, cost or expenses incurred in relation to making product recall, cost or expenses incurred in mitigating loss and loss or damage arising from the claims of any third party (including without limitation product liability claims) that may be suffered by the other Party.

9. INSURANCE

- i. The Client shall carry and maintain at all times during the period of time in which the Services are performed an adequate All Risk insurance with reputable A-rated A.M. Best / Standard & Poor's insurance carriers which (i) does not contain an exclusion for third party liability and (ii) covers the full value of the Artworks which are inspected by the Company.
- ii. The Client shall acknowledge that its insurance is primary and ensure that no claims for contribution are made against any of the Company's insurance policies except in case of the Company's willful misconduct or gross negligence. The above policies shall name the Company as an additional insured, contain a cross liability clause and an explicit waiver of subrogation against the Company.

10. DATA PROTECTION

- i. The Company and its employees, agents, consultants and subcontractors in performance under these General Conditions (i) will collect, process, store, use, disclose and dispose of all information relating to a person that is sufficient to cause the person to be identified, directly or indirectly (collectively, Personal Identifiable Information ("PII")), in full compliance with laws and the Company's privacy policy and security requirements; and (ii) will only share, transfer, disclose, or otherwise provide access to PII as necessary for the Company to perform the Services; and (iii) will only collect, process, use and store PII on Client's behalf as necessary for the Company to perform the Services. Any PII or aggregate information provided to, created, obtained, procured, used or accessed by the Company in performance of the Services is the sole property of the Client.

- ii. This Section serves as the Company's written certification that all PII is handled strictly in accordance with the Swiss Data protection laws. The Company will immediately inform the Client in writing of any breach of this section or if the Company has any reason to believe that PII may have been lost or used, acquired or accessed, or disclosed in violation to these General Conditions.

11. FORCE MAJEURE

- i. Force majeure shall mean an event, the occurrence of which is beyond the reasonable control of the claiming party, and which renders either the Client or the Company unable, wholly or in part, to carry out the Services, which inability could not have been prevented or overcome by the claiming party exercising reasonable foresight, planning and implementation.
- ii. Neither party shall be liable for any loss or damage resulting from any delay or failure in the performance of the Services hereunder resulting directly or indirectly from an event of Force majeure. If the disability continues for more than fifteen (15) days, then the non disabled party will have the right to terminate the order without incurring any liability whatsoever providing however that all fees due for the portion of the Services which have already been performed shall be immediately due.

12. TERMINATION

- i. Unless terminated earlier as described below, the order shall commence at the latest on the first day on which the Services are commenced and shall continue until the Services have been completed.
- ii. Any order may be terminated by (i) either Party if the other continues in material breach of

any obligation imposed upon it hereunder for more than thirty (30) days after written notice has been given by that party requesting the other to remedy the breach; or (ii) in the event of occurrence of a reason for insolvency or in the event a petition in insolvency proceedings in respect of the other party.

- iii. Any termination of an order shall not affect the accrued rights and obligations of the parties nor shall it affect any provision which is expressly or by implication intended to come into force on or after such termination or expiration.

13. PLACE OF PERFORMANCE – PLACE OF JURISDICTION – APPLICABLE LAW

- i. Unless specifically agreed otherwise, all disputes arising out or in connection with the Contractual Relationship(s) hereunder shall be governed by the substantive laws of Switzerland exclusive of any rules with respect to conflicts of laws and be finally settled under the Rules of Arbitration of the International Chamber of Commerce by one or more arbitrators appointed in accordance with the said rules. The arbitration shall take place in Geneva (Switzerland) and shall be conducted in the English language.

14. DEFINITIONS

- i. Registrar Condition Report (RCR) services consist in a visual inspection in visible light (without UV lamp) of the Artwork for the purpose of detecting visually obvious damages or fragilities of an Artwork, within a very limited time (about 10-15 minutes for a standard Artwork). RCR services are not aimed at detecting or documenting past restoration, retouching, small damages, cracks or any characteristic inherent to the constitution or materiality of an Artwork.

- ii. Transport Condition Report (TCR) services consist in a detailed visual inspection of the Artwork in visible light and, if relevant, in UV light for the purposes of documenting the state of conservation of an Artwork prior to or during or after a logistic operation, in order to be able to detect possible changes or damages. TCR services are not aimed at providing exhaustive material description of the Artwork and/or providing documentation of past restoration unless they are relevant to the monitoring of the state of conservation during the logistic operations.
- iii. Sale Condition Report (SCR) services consist in a detailed visual inspection in visible light and, if relevant, in UV light and any other technical methods, as the case may be, for the purposes of providing a detailed and thorough description and documentation of the material characteristics and state of conservation of an Artwork.
- iv. Technical Examination Report (TER) services consist in applying specific technical examination methods to works of art in order to document their physical and material characteristics and their state of conservation. These methods can be but are not limited to: infrared reflectography and transmittography, x-ray radiography, x-ray microfluorescence, stereomicroscopy, UV-fluorescence, raking light photography, etc. The results of the inspection are reported in a Technical Examination Report (TER). As a rule, the TER has to record the following information: Equipment; Technical details of data acquisition; Results. Additionally, the report may also include: Technical description of the results and objective technical comment on the results allowing their interpretation.

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WHEN YOU NEED TO BE SURE

