

## **GENERAL AGREEMENT TERMS AND CONDITIONS**

Scala Group S.p.A. (hereinafter also briefly referred to as "Scala Group" or "Scala") hereby represents that any authorization to access its own Database – being based on the use of the related research tools through subject indexes and/or specialized vocabularies, including functions like uploading, saving, sharing, sorting and purchasing - permitted by assigning usernames and passwords, and the leases of the related Master Copies extracted from said Database, as well as from any database represented by Scala Group under specific agreements, are subject to the following terms and conditions, which are disclosed, for all legal purposes, pursuant to art. 1341 of the Civil Code (hereinafter "CC") and made available to registered third parties through their publication on the website [www.scalarchives.com](http://www.scalarchives.com).

### **1) DEFINITIONS**

In this agreement, the following words and phrases shall have the meaning indicated below for each of them:

**Scala** means SCALA Group S.p.A., legally represented by Aldo Acquistapace, Member of the Board, empowered to sign this deed by the Board of Directors, having its registered office in Bagno a Ripoli (FI), Via Chiantigiana n. 62, VAT number 04037920487, Florence Company Register number 04037920487, R.E.A. [Economic-Administrative Index] no. 409666, with a fully paid-up share capital of Euro 1,047,873.00.

**Client** means the entity/legal person authorized by Scala to access its Online Database and use any Master Copy extracted therefrom.

**Online Database** means the dynamic database consisting of the collection that presently includes around 2,000,000 (two million) images (average A4 RGB-formats at 300dpi, i.e. 2400 x 3500 pixels or higher resolutions), together with the related cataloguing information and other independent items, systematically and methodically arranged, and individually accessible electronically, better identified in the website [www.scalarchives.com](http://www.scalarchives.com). Scala is the exclusive owner of all the economic exploitation rights existing on the Online Database in any form whatsoever, pursuant to Law no. 633 of 22 April 1941 and subsequent amendments and supplements, as well as the owner of the Master Copies that make up said Database, together with the databases represented by Scala Group itself.

**Parties** means jointly Scala and the Client.

**Master Copy/ies:** means CDs, Blu-Ray DVDs, memory cards, flash memory cards and the related electronic file(s) of digital images contained in the On-Line Database (average 300-dpi RGB A4 formats, i.e. with resolutions of 2400x3500 pixels or higher), protected by invisible digital watermarks, in TIFF, Jpeg, PDF, video formats, etc.

### **2) ACCESS TO THE ON-LINE DATABASE AND THE REPRESENTED ARCHIVES – LEASED MASTER COPIES - FEES**

Scala hereby authorizes the Client to access the On-Line Database – by using the related research tools through subjects indexes and/or specialized vocabularies, including functions like uploading, saving, sharing, sorting and purchasing – after being assigned the necessary username and password, and leases the Client any Master Copy the Client may request by e-mail, for exclusive use in colours and/or black and white, for the publication in a single edition and in only one reproduction format, according to the fees of the official price list published by Scala on the website [www.scalarchives.com](http://www.scalarchives.com). If the Master Copy is to be used in the web or in multimedia products, the Client shall not publish the images contained therein in any size greater than 800 pixels (long side). Any different understanding, which may also regard fees, intended to prevail over these general conditions, may be agreed upon before the Master Copies requested are sent; therefore, said changes will have to be made in writing and signed by Scala and the Client, under penalty of nullity. After the payment of the aforesaid fee, Scala will send the Client the Master Copies requested.

The payment of said fee shall be due by the Client even in the event that the Client does not use the Master



*[Handwritten signature]* 1

Copies.

### **3) SCALA'S WARRANTIES**

Scala holds the Client harmless from any and all liability for any claim that might be brought by the photographer and/or his assignees for violation of any of his neighbouring rights on the "simple" photographs stored in the Master Copies. In case of any violation, objection or disturbance in the use of the Master Copies by the photographer, or his assignees, as owner(s) of the related associated rights, Scala shall make its best efforts and provide all the necessary assistance to indemnity and hold the Client harmless from any and all liability and loss.

If the Master Copies contain photographic works, Scala may indemnify and hold the Client harmless from any and all liability for any claim that might arise from, and only from, the copyright of the authors/photographers listed below:

- Lola Alvarez Bravo
- Dean Brown
- Louise Dahl-Wolfe
- Adolf Fassbender
- John Gutmann
- Otto Hagel
- Hansel Mieth
- Wright Morris
- Dorothy Norman
- Marion Palfi
- Mickey Pallas
- Al Richter
- Laura Volkerding
- Edward Weston
- Max Yavno

### **4) RIGHTS ON ASSETS, INTELLECTUAL PROPERTY AND PORTRAYED SUBJECTS**

Scala does not make any warranty as to the rights third parties may have or enforce in connection with the content (portrayed asset, art work or portrait) of the images reproduced in the Master Copies. In addition, the Client shall comply with any special condition in force in the museums represented by Scala.

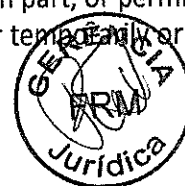
This means that this Agreement expressly excludes all the copyrights on photographic works (except for the provisions set forth in the last paragraph of art. 3 above), as well as all the rights third parties may have in connection with the reproducibility of tangible or intangible assets (including intellectual work or art works, distinctive signs, trademarks and logos, patents, industrial design and models, names of legal and other persons, etc.) and/or on the subjects portrayed in the images stored in the Master Copies.

The Client shall assess, at his own care and expense, whether there is a need to clear with any third parties holding rights on the assets, intellectual property and/or portrayed subjects (or, after his/their death, request the persons indicated in art. 93 of Law no. 633 of 22 April 1941) any necessary permission to be legally entitled to use said images stored in the leased Master Copies pursuant to art. 2 of the Italian Constitution, art. 10 C.C. and Legislative Decree no. 196 of 30 June 2003 (Privacy Law).

It is expressly understood that Scala shall remain free to use the images stored in the Master Copies leased to the Client and/or let any third party exploit them, even if they are direct competitors of the Client, as well as to use or let said images be used for any purpose and through any medium even if said use is considered to be in direct competition with the use made by the Client hereunder.

### **5) NO ASSIGNMENT OF RIGHTS - NO ASSIGNMENT OF THE AGREEMENT**

The Client may not assign this Agreement to third parties, either wholly or in part, or permit third parties to exercise one or more of the rights and powers contemplated herein, either temporarily or definitively. Any



assignment of rights or of the Agreement by the Client shall be specifically authorized in advance on a case-by-case basis upon a specific agreement signed by the parties under penalty of nullity.

#### **6) NATURE OF THE MASTER COPY**

It is expressly understood that the Master Copy is not fungible, is meant for a use that excludes consumption, and is and shall remain the exclusive property of Scala. The Master Copy shall be returned unaltered and with no change made by the Client at the end of the lease.

#### **7) CLIENT'S OBLIGATIONS**

The Client shall:

- not eliminate or remove the indications placed by Scala near each of the images stored in the Master Copies, the related cataloguing information and the photographic credit;
- not alter, deep-etch or manipulate said images in any manner without the previous written authorization of Scala.

The Client shall also:

- send Scala (and any represented museums) a sample of the products or publications developed by using the Master Copies;
- inform Scala in writing, well in advance, about the related dates of the first publication of the aforesaid products;
- confirm in writing all the actual parameters according to which the Master Copies are used.

The Client also agrees to mandatorily indicate the name of Scala near each reproduction or in the colophon, on each copy of the products or publications developed by the Client, together with the name of any other owner and the year of publication, by accurately indicating the credits exactly as they are specified in the delivery note.

#### **8) TRADEMARK**

The Client may not use or let others use the Scala trademark. The Client hereby recognizes and declares that no clause in this Agreement may be interpreted as giving the Client any right or power to use Scala's trademark, which is and shall remain the exclusive property of Scala. The Client recognizes the activity carried out by Scala, intrinsically contained in the trademark, in Italy and worldwide. The Client warrants that it has not acquired and will not acquire and will not behave as if it has acquired any right whatsoever in said trademark and its registrations.

#### **9) LIMITATIONS AND GUARANTEES**

9.1) The Client may not authorize third parties to use the Master Copies received by Scala in any form or manner.

9.2) The Client may transfer the Master Copies, limited to the companies outsourced for the composition work indicated in the order only, and for the sole purpose of conducting the activities specified hereunder.

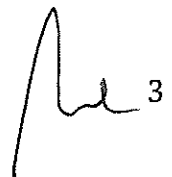
9.3) The Client represents and warrants that no copies will be made of the Master Copies received by Scala in addition to those agreed upon, and shall destroy, and have any company outsourced for the composition work indicated in the order destroy, any Media on which the Master Copies received have been transferred, together with any copy that may have been made, including any ephemeral or technical copy, as soon as the work assigned to them has been completed.

9.4) The Client also represents and warrants that it owns no Master Copy containing any image that is identical to those specified hereunder.

#### **10) PENALTIES**

Should the Client fail to fulfil even only one of the following obligations:



 3

- a) no assignment of the Agreement or prohibition to exercise one or more of the rights and powers granted by art. 5) of this Agreement;
- b) obligation to return the Master Copies pursuant to art. 6 hereof and/or to destroy the Master Copies pursuant to art. 9.3 hereof;
- c) obligation not to eliminate or remove the indications placed by Scala near each of the images stored in the Master Copies pursuant to art. 7 hereof;
- d) obligation to indicate the wordings specified in art. 7 hereof on each copy of the published Master Copies;
- e) prohibition to use or let others use the Scala trademark pursuant to art. 8 hereof;

the Client shall pay Scala a penalty equivalent to the fee paid, multiplied by five, for each individual violation, and Scala shall reserve the right to claim for compensation of any further damage.

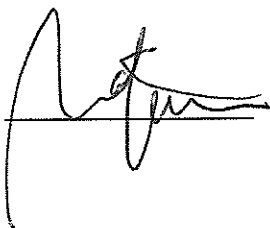
#### **11) APPLICABLE LAW**

It is expressly understood that this deed is regulated by the Italian law and, in particular, in compliance, either directly or analogically, of the rules set forth in articles 1571 CC and the following.

#### **INFORMATION AS PER ARTICLE 13 OF THE GENERAL DATA PROTECTION REGULATION (EU) 2016/679 (KNOWN AS GDPR)**

We hereby inform you that your data are treated in full compliance with the European regulation regarding the processing of personal data 679/16. Full information is available at <http://www.scalarchives.com/web/privacy.asp>

For Scala Group SPA



For the Client

