

# Terms and Conditions

## 1 Parties to the agreement

This agreement is made between the Conservator and Client whose respective details appear in the Contract overleaf.

Where the Client is not an individual the Client hereby warrants that the authorised signatory whose details appear in the Contract ("the Authorised Signatory") has the Client's full authority in all aspects in relation to this agreement.

Each of these terms and conditions apply as between the Conservator and the Client except as specified in the Contract or otherwise agreed in writing signed by the Conservator and the Client (or Authorised Signatory).

## 2 Description of Item

The Conservator will have no responsibility for the accuracy of the description of the Item provided in the Contract.

## 3 Agreed documentation

It is in the interest of the Client, the Conservator and the Item that:

- prior to any work being carried out by the Conservator an accurate and detailed preliminary report is made as to the condition of the Item.
- for lengthy or complicated works, interim "progress" reports are made. Any such report if signed by the Conservator and the Client (or Authorised Signatory) shall be considered a part of this agreement and shall be conclusive evidence of the condition of the Item, the nature of the work and its intended result.
- after completion of the work by the Conservator, a final report is made detailing the work carried out by the Conservator and the condition of the Item.
- a photographic record of the condition of the Item is made.

The Conservator retains the copyright in all reports, drawings, photographs or other forms of documentation made under or in relation to the Contract. Such reports, drawings or photographs may not be reproduced in whole or in part without the Conservator's written consent which may or may not be given on such terms as the Conservator thinks fit or declined with or without reason.

## 4 Agreed Work

The Conservator shall perform the agreed work set out in clause 4 of the Contract in accordance with any written specification of the Conservator which is accepted by the Client and appended to this agreement.

By accepting these Terms and Conditions, the Client hereby warrants to the Conservator that the Client is the legal owner of the Item or has all necessary rights, licences and permission to authorise the Conservator to carry out the agreed work, and that the item is free of all liens, charges and encumbrances of any nature. The Client shall indemnify and hold the Conservator harmless against all costs, claims liabilities and expenses incurred by the Conservator in connection with any claim by any third party that the Client was not entitled to permit the agreed work to be carried out.

The Conservator shall use all reasonable care and diligence in carrying out the agreed work. If any process is to be applied by the Conservator in accordance with a specification submitted by the Client, the Client shall indemnify the Conservator against all loss, damages, costs, claims and expenses suffered or incurred by the Conservator in connection with or paid or agreed by the Conservator in settlement of any claim of any nature by the Client or any third party arising out of or connected with the said process. The Conservator reserves the right to refuse requests contrary to ECCO professional guidelines.

The Client hereby acknowledges that the Item is subject to natural variations and deteriorations of colour, quality, markings and other visible and non-visible attributes. The Client hereby agrees and acknowledges that such variations and deteriorations are innate to the Item and shall not form the basis for the Client to reject all or part of the Item nor give rise to any claim by the Client against the Conservator.

The Client hereby acknowledges that the need for further work may arise during the undertaking of the agreed work. The Conservator agrees to notify the Client of any such need for further work and any necessary changes to the specification and consequential change to the cost shall be agreed by the Conservator and the Client in writing before additional work is begun.

## 5 Time

On receipt of the signed Contract the Conservator will schedule the agreed work and notify the Client of the planned completion date.

Any dates or periods of time quoted in the Contract or in relation to the carrying out or completion of any work, or the making of any report or specification are estimates only and the time of completion shall not be the essence of the Contract. The Conservator will endeavour to complete the agreed work within the estimated time but the Conservator shall not be liable for any loss or damage resulting from any failure by the Conservator to perform any obligations by any date, or within any period of time, quoted in the Contract.

## 6 Cost

The estimated cost is indicative only and is not a fixed quotation unless previously agreed with the Client.

The estimated cost shall be open for acceptance by the Client for a period of two calendar months from the date on which it is given. Where any such estimate is not accepted within two calendar months, the Conservator reserves the right to give a revised estimate, which shall be open for acceptance by the Client for a further period of two calendar months.

The Client agrees to pay the Conservator the cost of the work to be carried out, the cost of documentation and any additional costs, as specified in the Contract, in accordance with the payment terms below.

The Conservator reserves the right to revise the estimated cost in accordance with any agreed changes to the specification.

The Conservator reserves the right to require a deposit prior to beginning the agreed work dependent on the scale of the work and anticipated associated costs.

All estimates given are exclusive of VAT which shall be payable at the applicable rate.

## 7 Additional costs

The Client agrees to pay the Conservator, in accordance with the payment terms below, all out of pocket costs reasonably and necessarily incurred by the Conservator in carrying out the work specified in the Contract, such expenses to include (but not be limited to) the

cost of estimates, materials, equipment hire, travel, carriage, research, technical analysis, visits, photographs and consultation. The client shall be notified in writing where any such costs are likely to exceed the amount specified in the Contract.

## 8 Completion

The Conservator shall notify the Client of completion of the work by the manner specified in the Contract. It is the Client's responsibility to notify the Conservator of a change of telephone/email/address.

## 9 Terms of payment

Payment is due from the Client within thirty days of the date of any invoice submitted by the Conservator.

If any invoice is not paid within thirty days the invoice total shall bear interest at the rate of 8% above the base lending rate determined by the Bank of England in accordance with the Late Payment of Commercial Debts (Interest) Act 1998 as amended and supplemented by the Late Payment of Commercial Debt Regulations 2002, such interest being payable from the invoice due date until the date of receipt of cleared funds by the Conservator.

The Conservator reserves the right to cease work on the Item for which payment of any invoice remains outstanding for more than 30 days from the date of invoice.

The Conservator reserve the right to retain possession of the Item until all the invoices which relate to the Item have been paid in full. The Conservator's entitlement to charge a storage charge is set out below.

## 10 Collection and Storage

The Item shall be collected by the Client (or the Authorised Signatory) from the Conservator's premises within one calendar month of notification of completion. If not so collected, the Conservator shall be entitled to charge the storage charge specified in the Contract, such storage charge being payable from the date of notification of completion until the date of collection. If the Item is not collected within six months of the date of notification of completion then title to the Item shall pass to the Conservator who shall be entitled to sell the Item and recover from the net proceeds of sale such sums as may be due to the Conservator under or in relation to this agreement.

## 11 Cancellation

Where the Contract is cancelled by the Client prior to completion of the work specified in the Contract, the Client shall be liable to pay to the Conservator the cost of any documentation and work already carried out and any additional costs already incurred by the Conservator. Further, the Conservator shall be entitled to require payment of the cancellation fee specified in the Contract.

The Conservator will not accept any liability for any damages, costs, claims and expenses which result from incomplete conservation treatment following cancellation or nonpayment of money due from the Client.

## 12 Risk

The Client remains responsible for the risk of damage to or loss of the Item whilst in the Conservator's custody including but not limited to fire, theft and any other accident.

The Client hereby agrees that the Client will take all necessary steps to insure the Item whilst it is in the custody of the Conservator and the Conservator will have no responsibility to insure the Item unless specifically requested to do so by the Client in writing at least 28 days prior to the Item being delivered to the Conservator and specifically accepted on that basis in writing by the Conservator in which case the Client shall be liable for the payment to the Conservator of all premiums necessary to effect such insurance on or prior to delivery. The Conservator may at any time refuse to accept the Client's instructions to insure the Item in which case the responsibility to insure will revert to the Client.

The Client is responsible for arranging transit of the Item to and from the Conservator's premises unless otherwise agreed in writing. The Client is responsible for the insurance of the Item whilst in transit.

## 13 Liabilities

The Conservator is excluded from all liability to the Client except for professional liability involving the wilful neglect or default of the Conservator, his servants or agents. The Conservator's liability shall not exceed the cost of the work as specified in the Contract. Under no circumstances shall the Conservator be liable for any loss of profit or any indirect or consequential loss or damage. This clause shall not exclude the Conservator's liability for any death or personal injury caused by the Conservator. The Client agrees and accepts that the Conservator is only prepared to undertake the agreed work on this basis and that such limitation of liability is fair and reasonable in all the circumstances.

## 14 Third parties

Where the Conservator recommends to the Client any work to be carried out whether such recommendation is made in a report or otherwise, the Conservator is excluded from all liability to the Client in relation to any such work being carried out if and insofar as the Client engages a person other than the Conservator to carry out such work.

## 15 Variation

No alteration or variation to these terms and conditions or to the Contract shall be binding unless such alteration or variation is in writing and signed by the Conservator and the Client (or the Authorised Signatory).

## 16 Arbitration

Any dispute or difference arising out of or in connection with this Contract shall be determined by the appointment of a single arbitrator to be agreed between the parties, or failing agreement within fourteen days, after either party has given to the other a written request to concur in the appointment of an arbitrator, by an arbitrator to be appointed by the President or a Vice President of the Chartered Institute of Arbitrators.

## 17 Governing Law

This Contract shall be governed by and construed in accordance with English law and the parties agree to submit to the exclusive jurisdiction of the English Courts.