

## SELLER TERMS AND CONDITIONS

Trademylux Limited a company registered in Scotland under company number SC747669 whose registered address is 20b Drumsheugh Gardens, Edinburgh, Scotland, EH3 7RN trading as Ezeldotz ( "Trademylux").

### BY SELLING ARTWORK VIA TRADEMYLUX YOU ARE AGREEING TO BE BOUND TO THESE TERMS.

#### 1. INTERPRETATION

The following definitions and rules of interpretation apply in this agreement (unless the context requires otherwise).

##### 1.1 Definitions:

**Agreement** means these terms and conditions together with any documents provided by Trademylux relating to the Artwork;

**Agreed Buying Price** means the sale price that has been offered by the Buyer and accepted by the Seller including value added tax (inc VAT);

**Artwork** means the piece of artwork or collection of artwork, that the Seller is engaging Trademylux to value, market and receive offers for sale;

**Asking Price** means the price that Trademylux and the Seller have agreed (following valuation) to market the Artwork for sale (incl VAT);

**Buyer** means the person who bought at the listed price or whose offer to purchase the Artwork, has been accepted by the Seller;

**Confidential Information** means information in whatever form relating to the business, products, materials, affairs and finances of each Party for the time being confidential to the Party of which it relates and trade secrets (including without limitation any Intellectual Property), whether or not such information is marked confidential;

**Data Protection Legislation** means all applicable data protection and privacy legislation in force from time to time in the UK including (i) the retained EU law version of the General Data Protection Regulation (EU) 2016/679 (UK GDPR), (ii) any national implementing law, regulations and secondary legislation, as amended or updated from time to time in the UK including the Data Protection Act 2018 (and regulations made thereunder) and (iii) any successor legislation to the UK GDPR or the Data Protection Act 2018;

**Intellectual Property** means patents, utility models, rights to Inventions, copyright and neighbouring and related rights, moral rights, trademarks and service marks, business names and domain names, rights in get-up and trade dress, goodwill and the right to sue for passing off or unfair competition, rights in designs, rights in computer software, database rights, rights to use, and protect the confidentiality of, confidential information (including know-how and trade secrets) and all other intellectual property,

in each case whether registered or unregistered and including all applications and rights to apply for and be granted, renewals or extensions of, and rights to claim priority from, such rights and all similar or equivalent rights or forms of protection which subsist or will subsist now or in the future in any part of the world.

**Minimum Acceptable Price** means the lowest agreed amount between Trademylux and the seller would accept for the Artwork;

**Reseller Rights Fee** means any money due to a third-party in respect of the Design Right, Artist's Resale Right and Copyright (Amendment) Regulations 2023;

**Seller's Fee** means 28% of the Agreed Buying Price plus Value Added Tax (VAT);

**Termination Date** the date of termination of this agreement, howsoever arising;

**Website** means ezeldotz.com

- 1.2 The headings in this agreement are inserted for convenience only and shall not affect its construction.
- 1.3 A reference to a particular law is a reference to it as it is in force for the time being taking account of any amendment, extension, or re-enactment and includes any subordinate legislation for the time being in force made under it.
- 1.4 Unless the context otherwise requires, a reference to one gender shall include a reference to the other genders.
- 1.5 Unless the context otherwise requires, words in the singular shall include the plural and in the plural shall include the singular.

## **2. VALUATION**

- 2.1 The Seller will provide Trademylux with accurate and complete details of the Artwork which shall include:
  - (a) the name of the Artwork;
  - (b) the dimensions of the Artwork;
  - (c) high quality photographs of the Artwork;
  - (d) certificate of authenticity (where applicable);
  - (e) proof of ownership (where applicable); and
  - (f) any other information that Trademylux may reasonably request.
- 2.2 Subject to receipt of information from the Seller as set out above, Trademylux shall procure a valuation of the Artwork, such valuation to be a current market valuation undertaken by a person identified by Trademylux as having appropriate expertise.

- 2.3 The Seller and Trademylux shall agree after the valuation has taken place, on the Asking Price.
- 2.4 The valuation provided is an estimate reflecting the honest opinion of the valuer. No warranties or representations are provided by Trademylux in respect of such valuation (including in respect of accuracy), and any such warranties or representations that might be implied into this agreement but for the existence of this clause are hereby excluded.

### **3. MARKETING**

- 3.1 Following the valuation and agreement on the asking price, Trademylux will market the Artwork on its website, social media, and through affiliated galleries, where applicable, until the Seller accepts an offer or at Trademylux's discretion, in accordance with Clause 11.1. Trademylux will utilize its website, social media platforms, and affiliated galleries to promote the Artwork until an offer is accepted by the Seller or Trademylux decides to cease marketing efforts. This will commence after the valuation and agreement on the Asking Price
- 3.2 Offers will include conditional offers where the Buyer has requested to review the Artwork.
- 3.3 Where the Artwork remains on the Website unsold for a period of one hundred and twenty (120) days from original listing on the Website the Seller may terminate this Agreement in accordance with Clause 11.3.
- 3.4 Trademylux shall communicate all offers received for the Artwork to the Seller. Acceptance or rejection of any offer below the Minimum Acceptable Price shall be at the Seller's sole discretion.
- 3.5 Any offer at the Minimum Acceptable Price or above, shall be automatically accepted by Trademylux on behalf of the Seller.
- 3.6 On acceptance of an offer, the Seller shall be responsible for liaising with Trademylux for delivery of the Artwork to the Buyer in accordance with Clause 7.
- 3.7 For so long as this Agreement is in effect Trademylux will have the exclusive right to market the Artwork. In the event that the Seller markets the Artwork in any other way Trademylux shall be entitled to terminate this Agreement and will be entitled to 28% of the agreed Seller's Fee by way of termination compensation.

### **4. SALE**

- 4.1 The Sale shall not be finalised until the Artwork has been delivered and a 14-day cooling off period has elapsed.

### **5. THE SELLER'S WARRANTY**

- 5.1 The Seller warrants, represents and undertakes to Trademylux that:
- (a) it has the authority to enter into this Agreement and to market and offer for sale the Artwork;

- (b) it owns the Artwork and is able to provide proof of ownership;
- (c) (where the Artwork is a limited-edition piece) it shall provide a certificate of authenticity;
- (d) that entering into and performing this Agreement will not infringe the rights of any third party; and
- (e) that it shall follow all reasonable instructions given to them by Trademylux.

## **6. TRADEMYLUX'S WARRANTY**

- 6.1 Trademylux warrants that it has the authority to enter into this Agreement.
- 6.2 Trademylux warrants that it will use all its resources to assist the Seller in the sale of the Artwork.

## **7. DELIVERY**

- 7.1 Following acceptance of an offer by the Seller, the Seller shall liaise with Trademylux to have the Artwork prepared for shipping to either:
  - (a) the Buyer; or
  - (b) an affiliated gallery of Trademylux where the Buyer has requested to review the Artwork prior to finalising the purchase, as directed by Trademylux.
- 7.2 In the event that the Buyer has asked to review the Artwork prior to finalising the purchase as a condition of an offer, Trademylux shall exhibit the Artwork to the Buyer at the affiliated gallery on an identified date and shall require the Buyer to accept or reject the Artwork on such date.
- 7.3 Trademylux, in collaboration with the Seller, will arrange for collection and delivery to the Buyer using a shipping specialist.
- 7.4 Subject to clause 7.5 the Buyer will be responsible for all costs associated with the delivery.
- 7.5 The Seller will be responsible for procuring in-transit insurance in connection with delivery in accordance with clause 7.1. Trademylux can introduce the Seller to an insurer if requested.
- 7.6 For the avoidance of doubt Trademylux will not be responsible for the Artwork at any time, the Seller shall be responsible for the Artwork until the Artwork is delivered to the Buyer. The Seller shall continue to be responsible for Artwork whilst this is in transit with the delivery specialist. It is the Seller's responsibility to ensure that adequate insurance is in place. In the event that the Buyer rejects the Artwork, the Buyer shall still bear responsibility for the Artwork, including the shipping and insurance costs, until the Artwork is returned to the Seller.
- 7.7 For the avoidance of doubt the Buyer shall be responsible for the Artwork during the 14 day cooling off period, in accordance with clause 8.1, has elapsed.

## **8. PAYMENT**

- 8.1 The Buyer will pay the Agreed Buying Price to Trademylux. Trademylux shall hold the Agreed Buying Price in a ring-fenced account separate from Trademylux's trading account until the Buyer has received the Artwork and a period of fourteen (14) days thereafter has elapsed. After this fourteen (14) day period has elapsed the Buyer will have been deemed to accept the Artwork whether or not the Buyer has confirmed their acceptance.
- 8.2 After the fourteen (14) day period has elapsed Trademylux will be entitled to deduct from the Agreed Buying Price:
- (a) the Seller's Fee;
  - (b) any applicable Reseller Rights Fee; and
  - (c) insurance cost, in accordance with clause 7.5.
- 8.3 The remaining balance from the Agreed Buying Price after the deductions in accordance with Clause 8.2 shall be paid to the Seller into a nominated bank account.
- 8.4 Any interest accrued on the Agreed Buying Price whilst it remains in Trademylux's holding account shall belong to Trademylux.
- 8.5 Title in the Artwork shall pass to the Buyer after a period of 14-days, from delivery. Risk and responsibility shall pass to the Buyer in accordance with clause 7.6.

## **9. LIABILITY**

- 9.1 Nothing in this Agreement shall limit or exclude Trademylux's liability for:
- 9.1.1 death or personal injury caused by its negligence, or the negligence of its employees, agents or subcontractors (as applicable);
  - 9.1.2 fraud or fraudulent misrepresentation;
  - 9.1.3 breach of the terms implied by section 12 of the Sale of Goods Act 1979; or
  - 9.1.4 any matter in respect of which it would be unlawful for Trademylux to exclude or restrict liability.
- 9.2 Subject to Clause 9.1:
- 9.2.1 Trademylux shall under no circumstances be liable to the Seller, whether in contract, delict (including negligence), breach of statutory duty, or otherwise, for any loss of profit or any indirect or consequential loss arising under or in connection with this Agreement;
  - 9.2.2 Trademylux shall under no circumstances be liable for any loss or damage which may occur during shipping; and
  - 9.2.3 Trademylux's total liability to the Seller in respect of all other losses arising

under or in connection with this Agreement, whether in contract, delict (including negligence), breach of statutory duty, or otherwise, shall in no circumstances exceed the Charges paid or payable to Trademylux in connection with this Agreement.

## **10. CONFIDENTIALITY**

- 10.1 Neither party shall use the other party's confidential information for any purpose other than to exercise its rights and perform its obligations under or in connection with this agreement.

## **11. TERMINATION**

- 11.1 Trademylux may terminate this Agreement at any time with immediate effect by providing written notice to the Seller.
- 11.2 In the event that the Seller wishes to terminate this Agreement after it has accepted the Buyer's offer, Trademylux will be entitled to 28% of the Agreed Buying Price.
- 11.3 The Seller may terminate this Agreement in the event that the Artwork has been marketed for a period of one hundred and twenty (120) days and no offers have been accepted by the Seller in accordance Clause 3.4 .
- 11.4 Any provision of this agreement that expressly or by implication is intended to come into or continue in force on or after termination of this agreement shall remain in full force and effect.

## **12. DATA PROTECTION**

- 12.1 Trademylux will collect and process information relating to the Seller in accordance with its privacy notice ([Privacy - EzelDotz](#)).
- 12.2 Both Parties shall comply with the Data Protection Legislation.

## **13. ENTIRE AGREEMENT**

- 13.1 This Agreement constitutes the entire agreement between the parties and any Group Company and supersedes and extinguishes all previous agreements, promises, assurances, warranties, representations and understandings between them, whether written or oral, relating to its subject matter.
- 13.2 Each party acknowledges that in entering into this agreement it does not rely on, and shall have no remedies in respect of, any statement, representation, assurance or warranty (whether made innocently or negligently) that is not set out in this Agreement.
- 13.3 Each party agrees that it shall have no claim for innocent or negligent misrepresentation or negligent misstatement based on any statement in this Agreement.
- 13.4 Nothing in this clause shall limit or exclude any liability for fraud or fraudulent misrepresentation.

#### **14. STATUS**

- 14.1 Nothing in this Agreement is intended to, or shall be deemed to, establish any partnership or joint venture between any of the parties, constitute any party the agent of another party, or authorise any party to make or enter into any commitments for or on behalf of any other party.

#### **15. COUNTERPARTS**

- 15.1 This Agreement may be executed in any number of counterparts, each of which, when executed and delivered, shall constitute a duplicate original, but all the counterparts shall together constitute the one agreement.

#### **16. VARIATION**

- 16.1 No variation of this agreement or of any of the documents referred to in it shall be effective unless it is in writing and signed by the parties (or their authorised representatives).

#### **17. THIRD PARTY RIGHTS**

- 17.1 This Agreement does not give rise to any rights under the Contract (Third Party Rights) (Scotland) Act 2017 to enforce any term of this Agreement.

#### **18. GOVERNING LAW**

- 18.1 This Agreement and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims) shall be governed by and construed in accordance with Scots law.