

**PURCHASE AGREEMENT OF THIS CONTRACT OR**

**HÈRCULES**

**(SELF-PORTRAIT IN PROCESS OF ECONOMIC DEPRECIATION AND GAINING CULTURAL ADDED VALUE)**

**\* \* \***

**IN BARCELONA, ON**

**BY AND BETWEEN**

**MR. JOSEP AGUT BONSFILLS, ALIAS PEP AGUT,  
OF LEGAL AGE, WITH ADDRESS, FOR THE PURPOSE OF THIS AGREEMENT, AT .....  
.....  
HOLDING NATIONAL IDENTITY CARD NUMBER (OR PASSPORT NUMBER):.....**

*And*

**MR. / MS. ....,  
WITH ADDRESS, FOR THE PURPOSE OF THIS AGREEMENT, AT .....  
.....  
HOLDING NATIONAL IDENTITY CARD NUMBER (OR PASSPORT NUMBER): .....**

**ACTING**

MR. JOSEP AGUT BONSFILLS IN HIS OWN NAME AND ON HIS OWN BEHALF.

*And*

MR. / MS. ....,  
.....  
.....

BOTH PARTIES, IN THE POSITIONS IN WHICH THEY ACT HEREBY, MUTUALLY ACKNOWLEDGE THAT THEY HOLD SUFFICIENT LEGAL STANDING TO ENTER INTO THE PRESENT SALES AGREEMENT OF THIS CONTRACT, OR, HÈRCULES (A SELF PORTRAIT LOSING ECONOMIC VALUE AND GAINING CULTURAL CAPITAL), WHICH FROM NOW ON WILL BE REFERRED TO AS HÈRCULES OR THE WORK, FOR SUCH PURPOSE

**WITNESS:**

I

MR. JOSEP AGUT BONSFILLS, HEREINAFTER REFERRED TO AS EITHER THE ARTIST, AUTHOR OR VENDOR, IS THE AUTHOR (DUE TO HAVING CREATED AND REQUESTED THE PRODUCTION OF THE WORK), EXCLUSIVE HOLDER OF THE INTELLECTUAL PROPERTY RIGHTS (IMPOSED BY THE SYSTEM AND DUE TO NOT HAVING ASSIGNED THEM TO ANY OTHER PARTY PRIOR TO THIS PROCEDURE), AND OWNER (IMPOSED BY THE SYSTEM AND DUE TO NOT HAVING TRANSFERRED THE OWNERSHIP) OF THE WORK OF ART HÈRCULES, A WORK OF ART THAT IS CONTAINED IN THIS DOCUMENT AND WHICH IS, IN TURN, AN AGREEMENT, AND IS THEREFORE AUTHORISED TO TRANSFER THE SUPPORT CONTAINING THE WORK (*CORPUS MECHANICUM*), AND TO LICENCE CERTAIN INTELLECTUAL PROPERTY RIGHTS FOR IT (*CORPUS MISTICUM*) AND TO DETERMINE THE COMMERCIAL TERMS AND CONDITIONS FOR ITS SALE.

WHEREAS, THE FORMALITIES FOR THE WORK OF ART, HÈRCULES, ARE CARRIED OUT IN SUITABLE TERMS AND CONDITIONS -BY VIRTUE OF THIS DOCUMENT- IN ORDER TO BE CIRCULATED IN THE EXHIBITION CIRCUIT CONSISTING OF VARIOUS AGENTS (ART GALLERIES, MUSEUMS, TOURIST AND CULTURAL EVENTS, THROUGH COMMUNICATION MEANS, ETC.) WHICH, BY DETERMINING THE FRAMEWORK TO CALCULATE THE EXCHANGE VALUES AND HIERARCHICAL POSITIONS, ARE AIMED AT UNDERTAKING ARTISTIC AND CULTURAL PRODUCTIONS BY MEANS OF THE ECONOMIC AND HISTORIOGRAPHIC SYSTEMS THEY USE.

WHEREAS, THE AGREEMENT, HÈRCULES, STRUCTURES AND DEFINES, WITHIN THE LEGAL SCOPE OF THE CONTINENTAL AND ANGLO-SAXON COPYRIGHT SYSTEM, THE TWO ESSENTIAL DYNAMICS OF ITS STRUCTURE -THE PROCESS OF ECONOMIC DEPRECIATION AND GAINING CULTURAL ADDED VALUE-, BOTH DETERMINED BY THE ORGANIZATIONAL CONDITIONS OF PRIVATE PROPERTY RELATED TO CULTURAL PRODUCTIONS AND THE RESTRICTIONS IMPOSED

BY THE AFOREMENTIONED SYSTEM.

WHEREAS, THE DOCUMENT, HÈRCULES, CONTAINS THE AESTHETIC AND LEGAL MATERIAL TO STRUCTURE AND DEFINE IT FROM A CONCEPTUAL AND TEMPORAL POINT OF VIEW.

II

MR. / Ms. ...., HEREINAFTER REFERRED TO AS EITHER THE COLLECTOR OR THE PURCHASER, WISHES TO ACQUIRE THE WORK, ACCORDING TO THE TERMS AND CONDITIONS ACCEPTED BY VIRTUE OF THIS AGREEMENT, AND THE VENDOR ALSO WISHES TO SELL THE WORK AND RELEASE THE INTELLECTUAL PROPERTY RIGHTS THEREOF.

FOR SUCH PURPOSE, BOTH PARTIES ENTER INTO THIS PURCHASE AGREEMENT FOR THIS CONTRACT OR HÈRCULES, WHICH SHALL BE GOVERNED BY THE FOLLOWING

**CLAUSES:**

**ONE: OBJECT OF THE AGREEMENT**

**1.1 TRANSFER OF THE WORK**

THE OBJECT OF THE AGREEMENT IS THE TRANSFER OF THE WORK HÈRCULES AND THE ASSIGNMENT OF CERTAIN INTELLECTUAL PROPERTY RIGHTS THEREOF TO THE PURCHASER AND TO ANY ANONYMOUS THIRD PARTY.

HÈRCULES IS THIS DOCUMENT, CONSISTING OF A SET OF INSEPARABLE ELEMENTS. THESE ELEMENTS ARE THE FOLLOWING: CERTAIN BINDERS PROTECTED BY A COVER CONTAINING A SERIES OF PAGES; THE BINDERS CONTAIN THE TITLE OF THE WORK AND A PHOTOGRAPH OF A HAND OFFERING A CATALAN SAUSAGE (BOTIFARRA) TO A LION; THE SERIES OF PAGES INCLUDES THE PRINTED TEXT STRUCTURING THE AGREEMENT, THE NAME AND DETAILS OF THE PURCHASER WRITTEN BY HAND, THE SIGNATURES OF THE ARTIST AND THE COLLECTOR, AND A FREEHAND SELF PORTRAIT OF THE ARTIST DRAWN IN PENCIL FROM PAGES 4 TO 5.

**1.2 NON-EXCLUSIVE ASSIGNMENT OF THE INTELLECTUAL PROPERTY RIGHTS**

THE ARTIST WISHES THE CONTENTS AND THE RIGHTS OF EXPLOITATION OF HÈRCULES TO REMAIN OPEN AND FREELY AVAILABLE TO ANY PERSONS THAT MAY BE INTERESTED THEREIN, THEREFORE HE ASSIGNS ALL THE NON-EXCLUSIVE INTELLECTUAL PROPERTY RIGHTS TO THE PURCHASER (EXPLOITATION RIGHTS) PROTECTING THE WORK AND THE LATTER UNDERTAKES TO MAKE THE WORK AVAILABLE TO THE PUBLIC BY ANY MEANS WITHIN ITS POWER AT ANY TIME.

**TWO: CONSIDERATION**

**2.1 PRICE**

AS CONSIDERATION FOR THE TRANSFER OF THE WORK AND THE ASSIGNMENT OF THE

INTELLECTUAL PROPERTY RIGHTS RELATED THERETO, AS DETAILED IN THIS AGREEMENT, THE PURCHASER WILL PAY THE ARTIST THE AMOUNT OF .....  
..... (.....,.....€), AS STATED IN AN INVOICE TO BE ISSUED AND RECEIVED AT THE TIME THIS AGREEMENT IS SIGNED.

**2.2. VALUE**

THE PARTIES STATE THEY UNDERSTAND AND ACCEPT:

**1**

THAT THE VALUE OF HÈRCULES WILL PROGRESSIVELY DIMINISH UNTIL IT HAS COMPLETELY LOST ITS EXCHANGE AND POTENTIAL SPECULATIVE VALUE, DUE TO THE FACT THAT THE OBJECT THEREOF IS TO IMPLEMENT THE FOLLOWING PROCESSES:

A) THE FULL ECONOMIC DEPRECIATION OF THE WORK AS MERCHANDISE BY MEANS OF THE CONSECUTIVE PRODUCTION OF NEW HÈRCULES AT THE TIME OF EACH SALE, WHICH WILL BE THE SAME AS THE PREVIOUS ONE AND ABSOLUTELY IDENTICAL IN VALUE AND CONTENT, WITHIN THE LIMITS SPECIFIED IN THIS AGREEMENT IN ORDER TO CALCULATE THE PRICE PER WORK AS DEFINED BELOW; AND

B) THE CULTURAL ADDED VALUE OF HÈRCULES, BY MEANS OF ENLARGING PRIVATE AND/OR PUBLIC COLLECTIONS THAT ACQUIRE IT TO ENSURE A WIDER PUBLIC TO WHICH ITS CONTENTS ARE EXHIBITED BY SUCH AGENTS, OR BY ACHIEVING ITS PROMOTION AND DISSEMINATION BY OTHER DIRECT OR INDIRECT CHANNELS THROUGH OTHER DISTRIBUTION SYSTEMS.

**2**

THAT THE OBJECTIVE PHYSICAL DIFFERENCES IN THE PART CONSISTING OF THE SELF-PORTRAIT DRAWN FREE-HAND FOR EACH HÈRCULES DO NOT IMPLY THAT THEY ARE DIFFERENTIABLE ORIGINAL WORKS, BUT INSTEAD EACH OF THEM IS THE SAME RECREATED WORK, RESULTING IN THE SAME VALUE AND CONTENTS AS A WORK OF ART, AS A LEGAL AGREEMENT AND AS A DOCUMENT. THEREFORE, EACH HÈRCULES IS A RECORD OF ONE CONCEPTUAL ACTION THAT IS REPEATED OVER TIME AND NOT A GRAPHIC OR MULTIPLE PUBLICATION.

3

THAT GIVEN THE IMPOSSIBILITY TO DETERMINE *A PRIORI* THE TIME THIS PROCESS WILL TAKE, IT IS HEREBY SPECIFIED THAT THE ECONOMIC DEPRECIATION PROCESS WILL BE COMPLETED WHEN THE "LAST SALE" IS MADE AT A PRICE OF THE FEES CALCULATED AS WORK REMUNERATED BY HOURS PAYABLE TO THE ARTIST IN PROPORTION TO THE HOURLY RATE WORKED IN ONE FULL DAY AT THE OFFICIAL MINIMUM INTER-PROFESSIONAL SALARY IN FORCE FROM TIME TO TIME.

**2.3. SHARE IN THE ADDED VALUE**

THE CULTURAL ADDED VALUE OBTAINED THROUGHOUT THE PROCESS OF HÈRCULES WILL BE SHARED WITH THE PURCHASER, FOR HIS OWN SATISFACTION AND BENEFIT.

**THREE: OBLIGATIONS AND RIGHTS OF THE ARTIST**

**3.1. DELIVERY**

THE ARTIST UNDERTAKES TO DELIVER HÈRCULES TO THE PURCHASER AT THE TIME THE AGREEMENT IS ACCEPTED AND SIGNED BY BOTH PARTIES.

**3.2. PRODUCTION**

THE ARTIST UNDERTAKES TO CARRY OUT THE CONSECUTIVE PRODUCTION OF A NEW HÈRCULES EVERY TIME THERE IS A SALE THEREOF, WITHIN THE MATERIAL, CONCEPTUAL, COMMERCIAL AND LEGAL LIMITS SPECIFIED IN THIS AGREEMENT.

**3.3. RIGHTS NOT ASSIGNED TO THE PURCHASER AND RESERVED FOR THE ARTIST**

THE ARTIST AUTHORISES ANY ANONYMOUS THIRD PARTY TO PARTIALLY OR FULLY MAKE A REPLICA OF ALL OR PART OF HÈRCULES TO WHICH SUCH PARTY HAD BEEN ALLOWED ACCESS AND TO IMITATE, COPY, PLAGIARISE, CONVERT AND/OR USE IT TO CREATE OTHER RELATED WORKS.

#### **FOUR: GUARANTEES OF THE VENDOR**

1

THE ARTIST REPRESENTS AND GUARANTEES THE FOLLOWING TO THE PURCHASER:  
HE WILL HOLD FULL LEGAL STANDING TO CARRY OUT THE FORMALITIES FOR THIS AGREEMENT AS IT IS DRAWN UP AND FOR ALL PURPOSES.

HE WILL BE THE OWNER OF THE WORK AND IT IS FREE FROM ALL ENCUMBRANCES.

THE WORK DOES NOT INFRINGE THE INTELLECTUAL OR IMAGE PROPERTY RIGHTS OF ANY THIRD PARTIES.

2

THE ARTIST EXPRESSLY REPRESENTS AND THE PURCHASER ACCEPTS THE FOLLOWING:

THE VALID FULFILMENT OF THE WHOLE ECONOMIC DEPRECIATION PROCESS DOES NOT DEPEND ON THE EFFORTS OF THE ARTIST, THEREFORE HE SHALL NOT BE HELD RESPONSIBLE FOR THE COMMERCIAL CAPACITY OF THE AGENTS INVOLVED.

THE CULTURAL ADDED VALUE ACHIEVED BY ACCESS TO THE SUBSEQUENT COLLECTIONS DOES NOT DEPEND ON THE ARTIST'S OR THE COMMERCIAL AGENTS' EFFORTS, THEREFORE NEITHER THE FORMER NOR THE LATTER SHALL BE HELD RESPONSIBLE FOR THE COHERENCY AND CRITERIA WITH WHICH SUCH PUBLIC OR PRIVATE COLLECTIONS ARE ARRANGED AND THE PRESTIGE THEY BENEFIT FROM OR COULD BENEFIT FROM WITHIN ANY SCOPE WHATSOEVER IN THE FUTURE.

#### **FIVE: OBLIGATIONS AND RIGHTS OF THE PURCHASER**

THE COLLECTOR SHALL BE RESPONSIBLE, IN HIS OWN INTEREST, FOR THE CUSTODY AND MAINTENANCE OF THE PHYSICAL INTEGRITY OF THE WORK.

THE COLLECTOR MAY COPY THE WORK IN THE MANNER AND FORMAT HE MAY DEEM FIT, CONVERT AND MODIFY IT, AND CREATE RELATED WORKS.

AS THE OWNER OF THE WORK, THE PURCHASER SHALL BE ENTITLED TO SELL AND EXHIBIT IT TO THE PUBLIC AND IT UNDERTAKES THE OBLIGATION TO NOTIFY THE ARTIST OF SUCH ACTIONS BEFORE CARRYING THEM OUT AND AS SOON AS POSSIBLE.

#### **SIX: GUARANTEES OF THE PURCHASER**

THE PURCHASER STATES THAT HE POSSESSES THE REQUIRED LEGAL STANDING TO CARRY OUT THE FORMALITIES FOR THIS AGREEMENT.

#### **SEVEN: CONFIDENTIALITY**

THE PARTIES STATE AND REPRESENT THAT THEY DO NOT OBJECT TO ANY VERBAL OR WRITTEN ARTISTIC AND COMMERCIAL INFORMATION, OR OF ANY OTHER KIND, BEING DISCLOSED OR NOTIFIED TO THIRD PARTIES AND, IN GENERAL, WITH NO LIMITATION WHATSOEVER, ALL THE CURRENT INFORMATION OR ANY THAT MAY BE DEVELOPED IN THE FUTURE RELATED TO THE WORK AND THAT THE PARTIES MAY PROVIDE DURING THE

PREPARATION AND VALID TERM OF THIS AGREEMENT, INCLUDING THE TERMS AND CONDITIONS CONTAINED HEREIN.

**EIGHT: ASSIGNMENT TO THIRD PARTIES**

THE PURCHASER MAY PARTIALLY OR FULLY ASSIGN ALL THE EXCLUSIVE OR NON-EXCLUSIVE RIGHTS ACQUIRED BY VIRTUE OF THIS AGREEMENT TO THIRD PARTIES WITH NO LIMITATION WHATSOEVER ACCORDING TO THE TERMS AND CONDITIONS THAT MAY BE FREELY AGREED.

IT IS DEEMED THAT THE SERVICES PROVIDED BY THE ARTIST ARE OF A PERSONAL NATURE AND THIS AGREEMENT IS ENTERED INTO *INTUITU PERSONAE* DUE TO THE POSITION OF THE ARTIST AS AN ARTIST, BUT THE ARTIST MAY NOT ASSIGN THE OBLIGATIONS UNDERTAKEN BY VIRTUE OF THIS AGREEMENT TO ANY THIRD PARTY, IN PARTICULAR, HIS OBLIGATION TO CREATE NEW WORKS AND THE WORK FOR THE ECONOMIC DEPRECIATION AND GAIN OF CULTURAL ADDED VALUE THAT BOTH PARTIES INTEND TO ACHIEVE BY VIRTUE OF THIS AGREEMENT.

**NINE: TERMINATION OF THE AGREEMENT**

THE PARTIAL OR FULL BREACH OF ANY OF THE LEGAL OR CONTRACTUAL OBLIGATIONS ACCEPTED BY VIRTUE OF THIS AGREEMENT MAY RESULT IN ITS TERMINATION. THE PARTY THAT DECIDES TO TERMINATE THIS AGREEMENT MUST NOTIFY THE OTHER PARTY BY REGISTERED MEANS WITH THIRTY (30) DAYS PRIOR NOTICE BEFORE THE DATE WHEN SUCH TERMINATION WILL COME INTO FORCE. WITHIN SUCH TERM THE PARTY IN BREACH OF CONTRACT MAY REMEDY ITS BREACH BUT IF IT FAILS TO DO SO THE AGREEMENT SHALL BE FULLY TERMINATED AND REASONABLE COMPENSATION FOR DAMAGES AND LOSSES MAY BE CLAIMED.

**TEN: MODIFICATION OF THE AGREEMENT**

ANY MODIFICATION TO THIS AGREEMENT MUST BE DRAWN UP IN WRITING AND SIGNED BY BOTH PARTIES AND SUCH MODIFICATION SHALL BE ATTACHED TO THE PRESENT AGREEMENT.

**ELEVEN: NATURE OF THE WORK AND CONTRACT**

THE CONTRACTUAL RELATIONSHIP BETWEEN THE ARTIST, IN HIS POSITION AS A PROFESSIONAL ARTIST, AND THE PURCHASER, IN ITS POSITION AS AN INDEPENDENT COLLECTOR, IS OF A COMMERCIAL NATURE, AND THE PARTIES EXPRESSLY STATE THAT IT WILL BE GOVERNED BY SPANISH COMMERCIAL AND CIVIL LAW, AND NO LABOUR REGULATIONS OF ANY KIND SHALL BE APPLICABLE THERETO.

**TWELVE: APPLICABLE LAW AND JURISDICTION**

THIS AGREEMENT SHALL BE INTERPRETED ACCORDING TO SPANISH CIVIL AND COMMERCIAL

LAW, IN PARTICULAR, THE INTELLECTUAL PROPERTY ACT, (THIS REGULATION SEEMS TO BE COMPULSORY FOR THE FORMALITIES). ANY DISPUTES THAT MAY ARISE BETWEEN THE PARTIES RELATED TO THIS AGREEMENT SHALL BE SUBMITTED TO THE COURTS AND TRIBUNALS OF BARCELONA.

**FOURTEEN: SIGNATURE**

IN WITNESS WHEREOF, AFTER READING AND UNDERSTANDING THE CONTENTS OF THIS DOCUMENT, THE PARTIES SIGN IN GOOD FAITH TWO COPIES, BOTH WITH THE SAME VALIDITY, IN THE PLACE AND ON THE DATE STATED *UT SUPRA*.

THE ARTIST

THE PURCHASER