

AGREEMENT OF SALE

THIS AGREEMENT (“Agreement”) made and entered into as of the ____ day of _____, 2015, by and between Gagosian Gallery, Inc., having an office at 980 Madison Avenue, New York, New York 10075 (“Seller”), and Leon D. Black, residing at 760 Park Avenue, New York, New York 10021 (“Buyer”).

W I T N E S S E T H:

WHEREAS, Seller is acting as agent for the undisclosed owner (“Owner”) of the work of art described on the attached Schedule A (the “Work”); and

WHEREAS, Owner, through Seller, wishes to sell the Work to Buyer, and Buyer wishes to buy the Work from Seller, on the terms and conditions set forth in this Agreement.

NOW, THEREFORE, in consideration of the mutual promises contained herein, the parties hereto agree as follows:

1. SALE.

Seller hereby agrees to sell the Work to Buyer, and Buyer hereby agrees to buy the Work from Seller, subject to the terms and conditions of this Agreement.

2. PURCHASE PRICE AND PAYMENT.

A. The purchase price of the Work (“Purchase Price”) is One Hundred Fifteen Million Dollars U.S. (\$115,000,000.00), plus New York sales tax of Ten Million Two Hundred Six Thousand Two Hundred Fifty Dollars U.S. (\$10,206,250.00).

B. Buyer will pay the Purchase Price and sales tax by wire transfer as follows:

i. Twenty-three Million Dollars (\$23,000,000.00) within five (5) business days after Buyer’s receipt of the First Condition Report and approval of the Work’s condition as set forth in paragraph 5.A. below;

ii. Thirty-four Million Five Hundred Thousand Dollars (\$34,500,000.00) on June 30, 2015;

iii. Twenty-eight Million Seven Hundred Fifty Thousand Dollars (\$28,750,000.00) on October 1, 2015;

iv. New York sales tax of Ten Million Two Hundred Six Thousand Two Hundred Fifty Dollars (\$10,206,250.00) upon title to and possession of the Work passing from Seller to Buyer as set forth in paragraph 5.C.i. below; and

v. Twenty-eight Million Seven Hundred Fifty Thousand Dollars (\$28,750,000.00) on April 15, 2016.

C. Payments shall be made to Seller's account as follows:

Bank name:
Bank address:
ABA routing number:
Account name:
Account number:



3. SELLER'S REPRESENTATIONS AND WARRANTIES

A. Seller, on behalf of itself and on behalf of Owner, hereby represents and warrants that:

i. The Work is a genuine and authentic work of art created by Pablo Picasso and is the same work that is described on the attached Schedule A.

ii. Owner is the sole and lawful owner of the Work and has good and marketable title to the Work, and the Work is, and shall remain through the transfer of title, free of any and all rights, claims, liens, security interests or other encumbrances of any kind held by any person.

iii. Seller has full legal authority to enter into this Agreement and to make the agreements, representations and warranties contained herein, to deliver a bill of sale in the form annexed hereto as Schedule B (the "Bill of Sale"), to transfer good, full and unencumbered title in the Work to Buyer, and to complete the transaction contemplated herein. This Agreement has been duly authorized, executed and delivered by Seller and constitutes Seller's legally binding obligation, enforceable against Seller in accordance with its terms.

iv. The Work will be lawfully imported into the United States and lawfully and permanently exported as required by the laws of any country (including any laws or regulations applicable in the European Union) in which the Work is currently located. Seller agrees to provide a copy of the export license for the Work to Buyer.

B. Seller hereby agrees to indemnify and hold Buyer harmless from and against any and all demands, claims, losses, actions, suits, judgments or other liability (including all attorney or other professional fees and other expenses incurred by Buyer in connection therewith) incurred by or asserted or alleged against Buyer or awarded to any person or entity arising by reason of Seller's breach or alleged breach of any of its agreements, representations or warranties contained in this Agreement. Seller's representations, warranties and indemnity will survive completion of the transactions contemplated by this Agreement.

4. EXHIBITION.

Seller has notified Buyer that Owner will be loaning the Work to the Museum of Modern Art, located at 11 West 53rd Street, New York, New York 10019 ("MoMA") for an exhibition titled "Picasso Sculpture," which will be on view at MoMA from September 14, 2015 until February 7, 2016 (the "Exhibition"). Seller, Owner or MoMA shall be responsible for and shall pay for all expenses of packing and shipping the Work to MoMA. Seller agrees to arrange for MoMA to provide all risk fine arts wall-to-wall insurance coverage and/or United States Government Indemnity coverage for the Work during the period of the loan, including coverage

for terrorism. The value of the Work for insurance purposes will be the Purchase Price. Seller agrees to provide Buyer with a certificate of insurance evidencing such insurance coverage and naming Buyer as a loss payee to the extent of Buyer's interest in the Work.

5. CONDITION REPORTS.

A. Upon the signing of this Agreement by both of the parties hereto, Seller shall arrange for Buyer's curator, Diana Howard ("Curator"), to examine the Work. Curator will prepare a condition report for the Work (the "First Condition Report") and will deliver copies of the First Condition Report to Buyer and Seller. Buyer agrees to pay all costs for Curator's examination of the Work and preparation of the condition reports set forth in this paragraph 5.

i. If Buyer is satisfied with the condition of the Work as set forth in the First Condition Report, Buyer shall pay the first installment of the Purchase Price as provided in paragraph 2.B.i.

ii. If Buyer is not satisfied with the condition of the Work as set forth in the First Condition Report, Buyer will notify Seller in writing that Buyer is not proceeding with the purchase of the Work, this Agreement shall be automatically terminated and neither party will have any further obligation or liability to the other.

B. If the Work is damaged after the date of the First Condition Report and before the end of the Exhibition, Seller shall immediately notify Buyer in writing and Seller shall arrange for Curator to examine the Work. Curator will prepare a condition report for the Work (the "Second Condition Report") and will deliver copies of the Second Condition Report to Buyer and Seller.

i. If the Second Condition Report confirms that the Work is in a condition substantially similar to its condition as set forth in the First Condition Report, Buyer shall pay the installments of the Purchase Price set forth in paragraph 2.B.ii. and iii. as and when they are due.

ii. If the Second Condition Report does not confirm that the Work is in a condition substantially similar to its condition as set forth in the First Condition Report, the provisions of paragraph 5.D. below shall apply.

C. At the end of the Exhibition, Seller shall arrange for Curator to examine the Work at MoMA. Curator will prepare a condition report for the Work (the "Final Condition Report") and will deliver copies of the Final Condition Report to Buyer and Seller.

i. If the Final Condition Report confirms that the Work is in a condition substantially similar to its condition as set forth in the First Condition Report, (a) title to and risk of loss for the Work shall pass to Buyer as of the date of the Final Condition Report, (b) Buyer shall pay to Seller New York sales tax as provided in paragraph 2.B.iv., (c) Seller or Owner will direct MoMA to deliver the Work (at Seller's, Owner's or MoMA's expense) to Buyer at 760 Park Avenue, New York, New York 10021 ("Buyer's Location"), (d) Seller will deliver to Buyer the executed Bill of Sale and export license for the Work and (e) Buyer shall be obligated to pay the balance of the Purchase Price on April 15, 2016 as set forth in paragraph 2.B.v. If the Work is lost or damaged between the date of the Final Condition Report and when it arrives at Buyer's Location, and Seller or Owner is paid any insurance proceeds for such loss or damage, Seller

agrees to pay and to arrange for Owner to pay such insurance proceeds to Buyer in accordance with Buyer's ownership of the Work at that time.

D. If the Second Condition Report or the Final Condition Report, as the case may be, does not confirm that the Work is in a condition substantially similar to its condition in the First Condition Report, Buyer shall notify Seller in writing that Buyer is not proceeding with the purchase of the Work, and Seller shall refund to Buyer the amount of the Purchase Price previously paid by Buyer to Seller pursuant to paragraph 2.B. (the "Deposit"), less any insurance proceeds previously received by Buyer as a result of loss or damage to the Work, by wire transfer within five (5) business days of Seller's receipt of such notification. Upon receipt by Buyer of the Deposit less any such insurance proceeds, this Agreement shall be automatically terminated and neither party shall have any further obligation or liability to the other.

6. INSURANCE.

A. Seller agrees to arrange for Owner to provide at Owner's or Seller's cost all risk fine arts wall-to-wall insurance coverage for Work from the date of this Agreement until MoMA provides insurance coverage for the Work as set forth in paragraph 4 above. The value of the Work for insurance purposes will be the Purchase Price. Seller agrees to provide Buyer with a certificate of insurance evidencing such insurance coverage and naming Buyer as a loss payee to the extent of Buyer's interest in the Work.

B. Seller shall arrange for MoMA to provide insurance for the Work while it is on loan to MoMA as provided in paragraph 4 above.

C. Buyer agrees to provide at his cost all risk fine arts insurance coverage for the Work from the time the Work is delivered to Buyer's Location as provided in paragraph 5.B.i. until the Purchase Price has been paid in full. The value of the Work for insurance purposes will be the Purchase Price. Buyer agrees to provide Seller with a Certificate of Insurance naming Seller as a loss payee to the extent of Seller's interest in the Work.

7. COMMISSIONS.

Buyer shall not be responsible for and shall not pay any commissions or fees due any person acting on behalf of Seller or Owner as a result of the transaction contemplated by this Agreement. Neither Seller nor Owner shall be responsible for and neither shall pay any commissions or fees due any person acting on behalf of Buyer as a result of the transaction contemplated by this Agreement.

8. CONFIDENTIALITY.

During the term of this Agreement and after the closing of title, neither Buyer nor Seller will disclose the Purchase Price or the specific terms of this Agreement to any third party without the other's prior written consent, except (i) Seller may disclose the Purchase Price or the specific terms of this Agreement to Owner, provided that Owner has agreed to keep such information confidential, and (ii) either party may disclose the Purchase Price or the specific terms of this Agreement to attorneys and accountants on a need-to-know basis or as a result of valid legal process compelling the disclosure, provided that the disclosing party first give prompt written notice of such service of process to the non-disclosing party and allow the non-disclosing party, if it deems it appropriate, to obtain a protective order.

9. MISCELLANEOUS.

This Agreement, including the Schedules hereto, constitutes the entire agreement of the parties with respect to the transactions contemplated hereby and supersedes all prior agreements or understandings, written or oral, with respect to the subject matter of this Agreement. This Agreement shall be binding upon the parties' respective heirs, executors, beneficiaries, successors and assigns. Neither party may assign this Agreement without the prior written consent of the other party, except that Buyer may assign this Agreement without Seller's prior written consent to Buyer's spouse and/or lineal descendants and any entity predominately owned or created by (or for the benefit of) one or more of Buyer, his spouse or his lineal descendants. Neither party may amend, supplement or waive any provision of this Agreement other than by means of a writing signed by both parties hereto. Any notices given hereunder to Seller or Buyer shall be in writing to the respective addresses indicated on this first page of this Agreement (or to such other address as Seller or Buyer may notify each other in writing) and any such notice given to Buyer shall also be given to Elysium Management LLC, Attention: Bradley J. Wechsler, 445 Park Avenue, Suite 1401, New York, New York 10022. Notices shall be deemed to have been given five (5) calendar days after mailing to such address or one (1) business day after delivery by hand or nationally recognized overnight courier service. Paragraph headings contained herein are for convenience of reference only and shall not affect in any way the meaning or interpretation of this Agreement. This Agreement may be executed in counterparts, each of which shall be considered an original and all of which together constitute one and the same instrument. Signatures sent by facsimile transmission and scanned executed agreements in PDF format sent by email transmission are each valid and binding and will be deemed on original.

IN WITNESS WHEREOF, the parties hereto have hereunto signed their hands and seals the day and year first above written.

SELLER

GAGOSIAN GALLERY, INC.

By: _____
Larry Gagosian, President

BUYER

Leon D. Black

SCHEDULE A

THE WORK

Artist: Pablo Picasso
Title: *Buste de femme (Marie Thérèse)*
Date: 1931
Medium: Plaster
Dimensions: 30 $\frac{3}{4}$ x 19 $\frac{1}{8}$ x 18 $\frac{7}{8}$ in. (78 x 46 x 48 cm)

PROVENANCE

Collection of the artist
Private Collection (by descent to the present owner)

EXHIBITED

London, The Tate Gallery, *Picasso, Sculptor/Painter*, February 16 – May 8, 1994, no. 78, p. 117, illustrated in color.
New York, Gagosian Gallery, *L'Amour Fou: Picasso and Marie-Thérèse*, April 14 – June 25, 2011, pp. 138-39, illustrated in color.

LITERATURE

Werner Spies, *Les Sculptures de Picasso* (Lausanne: Clairefontaine, 1971), no. 131 lb.
Diana Widmaier Picasso, *Picasso: Art Can Only be Erotic* (New York: Prestel, 2005), p. 62, illustrated.

SCHEDULE B

BILL OF SALE

Dated: February ____, 2016

Sold by: Gagosian Gallery, Inc. ("Seller")
980 Madison Avenue
New York, NY 10075

Sold to: Leon D. Black ("Buyer")
760 Park Avenue
New York, NY 10021

Work sold: Artist: Pablo Picasso (the "Work")
Title: *Buste de femme (Marie Thérèse)*
Date: 1931
Medium: Plaster
Dimensions: 30 3/4 x 19 1/8 x 18 7/8 in. (78 x 46 x 48 cm)

Purchase Price: \$115,000,000.00 U.S., plus New York sales tax of \$10,206,250

Payable: Pursuant to the terms of the Agreement of Sale dated _____, 2015
between Seller and Buyer (the "Agreement").

The Work is sold subject to all agreements, terms, conditions, representations and warranties contained in the Agreement, and all such agreements, terms, conditions, representations and warranties thereunder are incorporated herein by this reference as if fully set forth herein in their entirety. Title to the Work shall pass to Buyer as set forth in the Agreement.

Gagosian Gallery, Inc.

By: _____
Larry Gagosian, President