

# Art Auction Analytics

## TERMS OF USE FOR ARTAUCTIONANALYTICS.COM IN THE UNITED STATES

Last modified: **January 18, 2022**

### A. INTRODUCTION

This agreement describes and sets forth the terms and conditions governing your use of the site, including the content, updates and new releases, (collectively, the "Service"). By accessing and using the site, you agree to be legally bound by these terms of use ("Terms and Conditions" or "Agreement"). You represent that you have the legal capacity to be bound by these terms of use. Please read the agreement carefully. These terms of use are a contract between the user (also referred to as "End-User", "You" or "Your") of the site and services and Art Auction Analytics, LLC (referred to as "Art Auction Analytics", "we", "our" or "us") for access and use of the site and its services.

If you are entering this agreement on behalf of a company or other legal entity, you represent that you have the authority to bind such entity to the terms of use and terms and conditions of this agreement and, in such event, "end user", "you" and "your" as used in this agreement shall refer to such entity. If you do not have such authority, you may not use the site and services.

The agreement contain terms, conditions, notices, covenants and provisions upon which you may access and use this site and its services, including, without limitation, text, opinions, photographs, video, audio, graphics, tools, analytics, functionality, products and information displayed and/or otherwise contained on the site. This site and the services contained therein are the exclusive property of Art Auction Analytics and/or its suppliers.

By accepting electronically (clicking "I Agree"), accessing or using the site, you confirm your complete acceptance to all of the terms and conditions laid forth in this agreement. If you do not agree to this agreement, then you may not use the site, services or downloaded material.

Subject to the terms and conditions set forth in this agreement, Art Auction Analytics grants you a personal, revocable, non-exclusive, non-transferable, limited license to access and use the site and its services conditioned upon your compliance with these Terms of Use. You may allow your corporate agents to use the services for this purpose and you alone are responsible for such use and compliance with this agreement and the order.

### B. ACCESSING AND USING SITE

***User Information Including Usernames and Passwords:*** To access certain portions of the site, you will be required to provide certain information, such as your name, address and email address to Art Auction Analytics and warrant that all such information is accurate and complete. Your username to access the content will be your email address. You will be responsible for

selecting a password and will be solely responsible for maintaining adequate password security protection. Neither Art Auction Analytics nor any of its suppliers shall be liable for any loss or damage arising from either intentional or unintentional use or misuse of the username and passwords assigned to you.

***Delegation of User Authentication:*** You are responsible for identifying and authenticating corporate or otherwise authorized agents, to be allowed to use the site and services. You are responsible for controlling against unauthorized access by these users. Art Auction Analytics is not responsible for any harm caused by your corporate agents, whether authorized or not. Art Auction Analytics is also not responsible for individuals who were not authorized to have access to the site, but who were able to gain access because usernames, passwords or accounts were not terminated on a timely basis in your local identity management infrastructure or your local computers. You agree to notify Art Auction Analytics immediately of any unauthorized use.

***Limitations on Scope of Artist Searches:*** You are responsible for any and all payments associated for the content of any search you run on an artist on the site. You will be only able to run content on selected artists who meet the following criteria:

- 1) The artist has had at least 8 lots (lot defined as an individual object or group of objects offered for sale at auction as a single unit) sold at auction in the last five years; and,
- 2) Of those lots (lot defined as an individual object or group of objects offered for sale at auction as a single unit) sold, the sales must have occurred over at least three separate auction periods. Each auction period is defined as the first six months or last six months of a year.

***Beta Features:*** From time to time, we may include new or updated beta features in the services ("Beta Features"). Beta features may have associated fees, which will be disclosed to you at the time you choose to use the beta features. We understand that your use of any beta feature is voluntary. You understand that once you use a beta feature, you will be unable to revert back to a prior non-beta version of the same or similar feature. You acknowledge and agree that any and all use of beta features are at your sole risk and agree to hold Art Auction Analytics harmless for any errors or issues caused by beta features.

***Uptime Access and Updates:*** Art Auction Analytics shall use reasonable commercial efforts to make the site and services available throughout the term of this agreement. You agree that from time to time the site and services may be inaccessible or inoperable for various reasons, including but not limited to (i) equipment malfunctions; (ii) periodic maintenance procedures or repairs; or (iii) causes beyond our control or which are not reasonably foreseeable by us, such as interruption or failure of telecommunications or digital transmission links, hostile network attacks or network congestion or other failures, force majeure, strike, fire, flood, earthquakes, governmental acts or orders or restrictions, failure of suppliers (collectively "Downtime"). Art Auction Analytics shall use reasonable commercial efforts to minimize any disruption, inaccessibility and/or inoperability of the site or the services in connection with downtime, whether scheduled or not, but Art Auction Analytics, under any circumstances, shall not be responsible for downtime.

We may make material changes or updates to the site and services (such as, but not limited to, infrastructure, security, technical configurations, site features, etc.) during a pre-arranged “service period” in which the site will be temporarily down and services unavailable. We will attempt to notify you at least 48 hours in advance of any scheduled downtime, if reasonable, unless there is an unforeseeable emergency. There is no guarantee of notification.

### **C. PROPERTY RIGHTS**

You acknowledge that the site and its services have been developed, compiled, prepared, revised, selected and arranged by Art Auction Analytics, and others (this may include other information sources) through the application of methods and standards of judgment developed and applied through the expenditure of substantial time, effort and money and constitutes valuable intellectual property and protected by copyright, trademark, patent, and trade secrets of Art Auction Analytics (and other parties). You agree to protect the proprietary rights of the site and services, and all others having rights in the site and to the services during and after the term of this agreement and to comply with all written requests made by Art Auction Analytics or its suppliers and licensors of content, equipment or otherwise ("Suppliers") to protect theirs and others' contractual, statutory and common law rights in the service. You agree to comply with U.S. law regarding the transmission of any data obtained from the site and services (as defined herein) in accordance with the terms of use.

All right, title and interest in and to the Art Auction Analytics website, any content thereon, our services, and the technology related to the Art Auction Analytics services, and any and all technology and any content created or derived from any of the foregoing is the exclusive property of Art Auction Analytics.

All proprietary rights (including, but not limited to, copyrights, trade secrets, database rights, trademark rights, rights to trade names, service marks and other product and service names and logos) in the site and the services, including, but not limited to, all content therein, are and shall remain the sole and exclusive property of Art Auction Analytics and their suppliers. You may not copy, imitate or use them without Art Auction Analytics' prior written consent. In addition, all page headers, custom graphics, button icons, and scripts are service marks, trademarks, copyright, and/or trade dress of Art Auction Analytics. You may not copy, imitate, or use them without our prior written consent.

The site and any services contained herein is protected by copyright and other intellectual property laws. Any of the trademarks, service marks or logos (collectively, the "Marks") displayed on the site may be registered or unregistered marks of Art Auction Analytics or others. Various products and services described on the site may carry registered or other trademarked symbols that are the sole property of their respective owners.

Breach may cause us, or our suppliers, irreparable injury that cannot be adequately compensated for by means of monetary damages. Any breach hereof by you may be enforced by Art Auction Analytics and its suppliers by means of equitable relief (including, but not limited to, injunctive relief), in addition to any other rights and remedies that may be available. Actual or attempted

illegal or unauthorized uses of the site, marks or any content are strictly prohibited and may result in criminal and/or civil prosecution.

You agree to notify Art Auction Analytics in writing promptly upon becoming aware of any unauthorized access or use of the site by any party or of any claim that the site infringes upon any copyright, trademark or other contractual, statutory or common law rights.

***Notification of Copyright Infringement:*** If you believe that content hosted or displayed on this site is in violation of your intellectual property rights you will need to send a notice of infringement to the below address with the following information:

1. A physical or electronic signature of a person authorized to act on behalf of the owner of the infringed copyright;
2. Identification of the copyrighted work or works claimed to have been infringed; identification of the material that is claimed to be infringing or to be the subject of infringing activity and that is to be removed;
3. Information reasonably sufficient to permit the service provider to contact the complaining party (e.g., the address, telephone number, or email address);
4. A statement that the complaining party has a good faith belief that use of the material is not authorized by the copyright owner; and
5. A statement that information in the complaint is accurate and that the complaining party is authorized to act on behalf of the copyright owner.

Notices lacking this information will not be considered valid notices of infringement and may be ignored as allowed by 17 U.S.C Section 512.

COPYRIGHT AGENT:  
Peyton Law, LLC for Art Auction Analytics  
150 North Radnor Chester Road, Suite F200  
Radnor, PA 19087  
Email: [claims@PeytonLaw.com](mailto:claims@PeytonLaw.com)

#### **D. SITE SECURITY AND CONDUCT POLICIES**

***Restrictions on Use of Site and Services:*** You may not license, sublicense, transfer, sell, resell, publish, modify, reverse-engineer, disassemble, decompile, store, reproduce, display and/or otherwise redistribute the site and its content, including the services or any component thereof in any manner (including, but not limited to, via or as part of any over-the-air television, radio broadcast, computer framing, or internet site) without the prior written consent of Art Auction Analytics.

You may not transfer or assign any rights or obligations you have under this agreement without Art Auction Analytics' prior written consent. Art Auction Analytics reserves the right to transfer or assign this agreement or any right or obligation under this agreement at any time.

You agree to use the Art Auction Analytics site and services solely for your own commercial use and benefit, and not for resale or other transfer or disposition to, or use by or for the benefit of, any other person or entity. Upon termination of services, the right to access and use the site and services will terminate immediately. You do not acquire under this agreement any right or license to use the site and content, in excess of the agreement. Additionally, you may not, or cause or permit others to:

- 1) Use the content or any portion of the site as part of any intranet or other internal network;
- 2) Provide use of the site or services to our competitors, including but not limited to: ArtTactic, MutualArt, Artsy, AMA, Artnet, Skate's, Invaluable, Artprice, Blouin Art Info and Art as Asset;
- 3) Make the site available on any file-sharing or other unauthorized methods of distribution;
- 4) Interrupt or attempt to interrupt the operation of the site in any way or circumvent or attempt to circumvent any security feature of this site;
- 5) Upload any type of virus, Trojan horse, worm or other disruptive or harmful software or data;
- 6) Use or attempt to use any "deep-link," "scraper," "robot," "bot," "spider," "data-mining," "computer code" or any other automated device, program, tool, algorithm, process, or methodology or manual process having similar processes or functionality, to access, acquire, copy, or monitor any portion of the site, the services found on or accessed through the site, or any user content without the prior express written consent of Art Auction Analytics;
- 7) Obtain or attempt to obtain through any means any services on the site that has not been intentionally made publicly available, either by their public display on the site or through their accessibility by a visible link on the site;
- 8) Violate any measure employed to limit or prevent access to the site or the services;
- 9) Violate the security of the site or attempt to gain unauthorized access to the site, the services, or data, materials, information, computer systems or networks connected to any Art Auction Analytics server, through hacking, password mining or any other means; or
- 10) Interfere or attempt to interfere with the proper working of the site or any activities conducted on or through the site, including accessing any services prior to the time that it is intended to be available to the public on the site; take or attempt any action that, in the sole discretion of Art Auction Analytics, imposes or may impose an unreasonable or disproportionately large load or burden on the site or our infrastructure.
- 11) Permit use by a third party in a manner that violates any applicable law, regulation or this agreement;
- 12) Create archival or derivative works based on the services or any portion thereof;
- 13) Use the site or any of the services, in whole or in part in any way that competes with Art Auction Analytics or its affiliates, including, without limitation, any distribution of the services or derivative works based thereon; or
- 14) Use the site for any illegal purpose or in any manner inconsistent with these terms of use.

**Phishing Protection:** We will never request data such as your password or social security number via e-mail. If you receive an e-mail or other correspondence requesting that you provide any sensitive information (including your password or credit card information) via e-mail, or to a

web site that does not seem to be affiliated with artauctionanalytics.com, or that otherwise seems suspicious to you, please do not provide such information, and promptly report such request to us.

## **E. PRIVACY POLICY**

***Personal Information Confidentiality:*** We do not sell, lease or give your personal information to any other company, unless you provide written consent. In using the site and services, you may provide data ("End-User Data") to Art Auction Analytics' servers, or to servers maintained by a third party. Art Auction Analytics agrees not to disclose end user's personal information to any third party, and not to permit any of its employees, agents, representatives, or sub-contractors to do so, except:

- 1) As necessary to effect, administer, or enforce, a transaction in connection with end user's use of the site or services;
- 2) In the ordinary course of business to permit us to perform our obligations under the agreement; or
- 3) As required or permitted by applicable law, court order, subpoena, or law enforcement;
- 4) With the prior written consent of End-user;
- 5) As permitted in the agreement; or
- 6) As required by applicable law, court order, subpoena, or valid law enforcement request.

***Nondisclosure:*** By virtue of this agreement, the parties may have access to information that is confidential to one another ("Confidential Information"). We each agree to disclose only information that is required for the performance of obligations under this agreement. Confidential information shall be limited to the terms and pricing under this agreement, your personal information, the site and the services, and all information clearly identified as confidential at the time of disclosure.

A party's confidential information shall not include information that:

- 1) Is or becomes a part of the public domain through no act or omission of the other party;
- 2) Was in the other party's lawful possession prior to the disclosure and had not been obtained by the other party either directly or indirectly from the disclosing party;
- 3) Is lawfully disclosed to the other party by a third party without restriction on the disclosure; or
- 4) Is independently developed by the other party.

We each agree not to disclose each other's Confidential Information to any third party other than as set forth in the following sentence for a period of three years from the date of the disclosing party's disclosure of the Confidential Information to the receiving party; however, we will hold your Confidential Information that resides within the site in confidence for as long as such information resides on the site.

We each may disclose Confidential Information only to those employees, agents or subcontractors who are required to protect it against unauthorized disclosure in a manner no less

protective than required under this agreement. We will protect the confidentiality of your Information residing on the site.

Nothing shall prevent either party from disclosing the terms or pricing under this agreement or orders placed under this agreement in any legal proceeding arising from or in connection with this agreement or from disclosing the Confidential Information to a governmental entity as required by law.

***Use of Cookies:*** For security reasons, we use cookies or similar technologies to identify your browser or device. You hereby consent to such use of cookies.

***Search Collection Metrics:*** Art Auction Analytics will collect non-identifiable data on such metrics as number of searches performed, types of searches, dates of searches, etc. You give us permission to use your non-identifiable, aggregated data to improve the services or to design promotions and provide ways for you to compare business practices with other users. We may also use the non-identifiable metrics as a commercial offering to other third parties.

***Notice to European Union Users:*** Art Auction Analytics's operations are located primarily in the United States. If you provide information to us, the information will be transferred out of the European Union (EU) to the United States. By providing personal information to us, you are consenting to its storage and use as described herein.

***Information Collected from Children:*** You must be at least 13 years old to use Art Auction Analytics's website(s) and service(s). Art Auction Analytics does not knowingly collect information from children under 13.

## **F. PRICING MODEL AND FEE STRUCTURE**

Art Auction Analytics offers the user a subscription model.

Subscription is a monthly fee charged for up to three devices. There are two subscription options, a Monthly Individual Subscription option, and a Monthly Custom Subscription option.

We reserve the right to discontinue or modify our pricing models. If we discontinue or modify our pricing models, we will provide you with 30 days' notice.

***Monthly Individual Subscription Option:*** The site and its services are subscribed to on a Monthly Subscription basis to the user that pays for the service. Monthly Subscription pricing includes a standard monthly fee that includes use on up to three devices. Payment of the Individual Subscription Model is always for the month forward.

***Monthly Custom Subscription Option:*** The site and its services are subscribed to on a Monthly Subscription basis to the user that pays for the service. Custom Monthly Subscription pricing is a negotiated and agreed to monthly fee that is based on a certain number of users. Payment of the Custom Subscription Model is always for the month forward.

***Subscription Cancellation:*** You must notify us of your request to cancel the subscription prior to the beginning of the new monthly subscription period. In the event that Art Auction Analytics is unable to charge a user's chosen payment method in accordance with this agreement, we may terminate this agreement and terminate access to our site and services immediately, without notice. Fees for the site and Content are not eligible for any proration of unused subscriptions or other refunds, even if access to the site and content are cancelled or terminated. After your access to the site is terminated, you may no longer have access to any of the services on the site. We suggest you retain your own copies of any services that you may need as we are not responsible for providing you with access to your services after any cancellation or termination of this agreement.

***All Payments Must be Made through an Agreed upon Method:*** Art Auction Analytics is currently using Stripe as its payment processing options and reserves the right to change the payment method at any time. We will give you at least 30 days' notice of the change.

***Automatic Renewal:*** Art Auction Analytics will automatically renew your Monthly Subscription Fee at the then-current rates, unless the services are cancelled by written request, or terminated under this agreement.

***Trial Searches:*** Art Auction Analytics reserves the right, not the obligation, to provide a new user, either an individual or organization, with a limited trial period. The time and nature of this trial is to be at the sole discretion of Art Auction Analytics. If Art Auction Analytics has any basis that a user is in violation of these trial search terms, we reserve the right to discontinue access to the site and services either with or without notice in addition to any other rights and remedies that may be available.

## **G. MISCELLANEOUS**

***Site Monitoring:*** Art Auction Analytics reserves the right to view, monitor, and record activity on the site without notice or further permission from you, to the fullest extent permitted by applicable law. We reserve the right to discontinue access to the site either with or without notice if we have a reasonable basis to believe that a user is accessing or using services in violation of these terms of use, in addition to any other rights and remedies that may be available.

***Communications:*** It is your responsibility to keep your primary email address up to date so that we can communicate with you electronically. You understand and agree that if we send you an electronic communication but you do not receive it because your primary email address on file is incorrect, out of date, blocked by your service provider, or you are otherwise unable to receive electronic Communications, Art Auction Analytics will be deemed to have provided the Communication to you.

Please note that if you use a spam filter that blocks or re-routes emails from senders not listed in your email address book, you must add Art Auction Analytics to your email address book so that you will be able to receive the Communications we send to you.



You can update your primary email address or any other general information at any time by logging into the site. If your email address becomes invalid such that electronic Communications sent to you by Art Auction Analytics are returned, we may deem your Account to be inactive, and you will not be able to transact any activity using your Art Auction Analytics Account until we receive a valid, working primary email address from you.

**Feedback:** You agree that we may use your feedback, suggestions, or ideas in any way, including in future modifications of the site, expansion of services, advertising or marketing materials. You grant us a perpetual, worldwide, fully transferable, non-revocable, fully paid-up, royalty free license to use the feedback you provide to intuit in any way.

**Term Updates:** We may change these terms of use at any time without notice. Changes will be posted on the site under "Terms of Use". Your use of the site after any changes have been posted will constitute your agreement to the modified terms of use and all of the changes. Therefore, you should frequently read these terms of use from time to time for changes.

**Severability:** No provision of this agreement which may be found to be illegal, unenforceable, or invalid shall in any way effect the legality, enforceability, or validity of any other provision or provisions of this agreement, and shall be considered to be severed from the rest of these terms and conditions, all of which shall remain in full force and effect.

**Headings:** Headings used herein are for convenience only and shall not affect the meaning or construction of this agreement. Any ambiguities in this agreement shall not be strictly construed against the drafter of the language concerned, but shall be resolved by applying the most reasonable interpretation under the circumstances, giving full consideration to the intentions of the parties at the time of contracting. This agreement shall not be construed against any party by reason of its preparation.

**Assignment:** End-user may not assign, transfer, or delegate any of its rights, duties or obligations hereunder, in whole or in part, without the prior written consent of Art Auction Analytics. This agreement shall bind the parties, their successors, heirs, and assigns to the extent permitted hereunder.

**No Creation of Obligations:** In all matters relating to this agreement, End-user and Art Auction Analytics shall act as independent contractors. Except as specified herein, neither party shall represent that it has any authority to assume or create any obligation, express or implied, on behalf of the other party, nor to represent the other party as agent, employee, franchisee, or in any other capacity.

**Laws of Pennsylvania:** This agreement shall be construed and interpreted in accordance with the laws of the Commonwealth of Pennsylvania, to the exclusion of any conflict of law or choice of law rule or principle that might otherwise refer construction or interpretation of this agreement to the substantive law of another jurisdiction.

## **H. WARRANTIES, INDMENIFICATIONS AND LIMITATIONS ON LIABILITY**

***Advice:*** We are not in the business of providing art advisory services including appraisal, legal, financial, accounting, tax, insurance or other services unless expressly requested by the client and accepted by us in writing. Please contact and consult the services of a competent professional when you need this type of service and assistance.

***Services on this are limited to data reporting and not analysis:*** Art Auction Analytics merely provides Artist Market Values and Artwork Market Values compiled from data from other sources and presents this information to the end user. There is no analytical content promised or provided to the end user. This validity and accuracy of this information is the responsibility of the original sources and Art Auction Analytics disclaims any and all liability from the use or misuse of this information, regardless of the accuracy of said information.

***Using Art Auction Analytics provides no guarantees:*** While our data provides insights and predictive indicators into how an artist or movement has performed or may perform in the future; we do not represent that we know how an Artist Market Value or Artwork Market Value will perform in the future. Past performance at auction is no guarantee of future performance. There is no guarantee that investing in any particular artist will meet your investment objectives. All data used in this report are believed to be reliable but cannot be guaranteed or warranted. Investing in different artists will provide different levels of risk. The analysis and projections provided here are hypothetical and do not reflect future results nor are guarantees of future performance. Investing in art is subject to risk, including the possible loss of all the money that you invest. If you have questions about investing in art or investment strategies, you should talk with a qualified professional.

***Art Auction Analytics Warranty:*** Art Auction Analytics represents and warrants that it is authorized to permit the use of the site and services by the end user. If the site and services provided to you were not performed as warranted, you must promptly provide written notice to us that describes the deficiency in the services (including, as applicable, the service request number notifying Art Auction Analytics of the deficiency in the services).

***Force Majeure:*** Neither you nor Art Auction Analytics shall be responsible for failure or delay of performance if caused by: an act of war, hostility, or sabotage; act of God; pandemic; electrical, internet, or telecommunication outage that is not caused by the obligated party; government restrictions (including the denial or cancelation of any export, import or other license); or other event outside the reasonable control of the obligated party. We both will use reasonable efforts to mitigate the effect of a force majeure event. If such event continues for more than 30 days, either of us may cancel unperformed site and services, and affected orders upon written notice. This Section does not excuse either party's obligation to take reasonable steps to follow its normal disaster recovery procedures or your obligation to pay for the services.

***End User Warranty and Indemnification:*** End user represents and warrants to Art Auction Analytics that end user has the power and authority to enter into and perform its obligations under this agreement. End user agrees to defend, indemnify, and hold harmless Art Auction Analytics, and their respective directors, officers, agents and employees, from and against any claims, damages, costs, and expenses, including all costs of legal proceedings and attorneys' fees, arising in connection with use of the site by end user or by anyone using a user name and

password allocated to end user or assigned by end user, or in connection with a violation or breach of this agreement by end user or by anyone using a user name and password allocated to end user or assigned by end user.

***Outside Website:*** The content of other websites, services, goods or advertisements that may be linked to the service are not maintained or controlled by us. We are therefore not responsible for the availability, content or accuracy of other websites, services or goods that may be linked to, or advertised on, the service. We do not:

- 1) Make any warranty, express or implied, with respect to the use of the links provided on, or to, the service;
- 2) Guarantee the accuracy, completeness, usefulness or adequacy of any other Web sites, services, goods or advertisements that may be linked to the service; or
- 3) Make any endorsement, express or implied, of any other websites, services, goods or advertisements that may be linked to the site.

***Liability for End-User Actions:*** You are entirely liable for activities conducted by you or anyone else in connection with your browsing and use of the site. You agree, at your own expense, to indemnify, defend and hold harmless Art Auction Analytics, its affiliates, its suppliers, agents, directors, officers, employees, representatives, successors and assigns from and against any and all claims, damages, liabilities, costs, and expenses, including reasonable attorneys' and experts' fees, arising out of or in connection with the service, or any links on the service, including, but not limited to including, but not limited to:

- 1) Your use or someone using your computer's use of the service;
- 2) Use by someone using your account;
- 3) A violation of the terms of use by you or anyone using your computer (or account, where applicable);
- 4) A claim that any use of the service by you or someone using your computer (or account, where applicable) infringes on any intellectual property right of any third party, or any right of privacy or publicity, is libelous or defamatory, or otherwise results in injury or damage to a third party;
- 5) Any deletion, additions, insertions or alterations to, or any unauthorized use of, the service by you or someone using your computer (or account, where applicable);
- 6) Any misrepresentation or breach of representation or warranty made by you contained herein; or
- 7) Any breach of any covenant or agreement to be performed by you hereunder.

If you are dissatisfied with the site or with these Terms of Use, your sole and exclusive remedy is to stop using the site.

Art Auction Analytics, its affiliates and their suppliers disclaim any and all warranties and representations, express or implied, including any warranties of merchantability or fitness for a particular purpose or use as to the site or the content, including information, data, software or products contained therein, or the results obtained by their use or as to the performance thereof. The site and content is provided for information purposes only and is not intended for

investment purposes. A reference to Artist Performance, Artist Market Value, Movement Performance, Movement Market Value, Artwork Market Value, Market Value, predictive modeling, additional (and future) analytics or any observation concerning an Artist or Movement provided on the site is not a recommendation to buy, sell, or hold such Artist, Artwork or Movement, or make any other investment decisions and does not address the suitability of any investment in an Artist, Artwork or Movement. The Content should not be relied on and is not a substitute for the skill, judgment and your experience or the experience of your advisors and/or clients in making investment and other business decisions. Art Auction Analytics does not act nor shall be deemed to be acting as a fiduciary in providing the site or the services.

The content available on and through the site may contain inaccuracies and typographical errors. Art Auction Analytics, its affiliates nor any of their suppliers guarantee the adequacy, accuracy, timeliness or completeness of the site, the content, materials or any component thereof or the reliability of any communications, including but not limited to oral or written communications (including electronic communications) or output with respect thereto or that the site or content will be free of viruses, worms or “trojan horses”. Art Auction Analytics is not responsible for the reliability or continued availability of telephone lines, wireless services, communication media and equipment you use to access the service. Neither Art Auction Analytics, its affiliates, nor any of their suppliers shall be subject to any damages or liability for any errors, omissions or delays in the site, including the content. The site, the content and all components thereof are provided on an “as-is” basis and your use of the site and the content is at your own risk.

Notwithstanding anything to the contrary in these terms of use, in no event whatsoever shall Art Auction Analytics, its affiliates or any of their suppliers, agents, directors, officers, employees, representatives or successors be liable for any direct, indirect, special, incidental, punitive or consequential damages, including but not limited to loss of profits, or lost time or good will, even if they have been advised of the possibility of such damages, whether in contract, tort, strict liability or otherwise. Neither Art Auction Analytics, its affiliates, nor any of their suppliers shall be liable for any claims against you by third parties.

In no event shall Art Auction Analytics, its affiliates or any of the suppliers be liable for any telecommunication service providers, the internet backbone, any activities of hackers or any nefarious or criminal activities, any internet servers, end user's computers, loss or inaccuracy of data, property damage, personal injury, interruptions of business, out-of-pocket expenses or any direct, indirect, special, consequential, punitive, exemplary, or incidental damage, regardless of whether such damages were foreseeable or whether such damages are based on contract, tort (including negligence), strict liability, warranty, statutory rights or any other basis arising out of, or connected with this agreement or the site, product, documentation, or services furnished hereunder.

In the event that liability is nevertheless imposed on Art Auction Analytics, its affiliates or their suppliers, in no event shall the maximum cumulative liability of Art Auction Analytics, its affiliates, and their suppliers in connection with the site, the content and/or these terms of use, regardless of the form(s) of action, whether in contract, tort, strict liability or otherwise, exceed one hundred dollars (\$100). No action, regardless of form, arising from or pertaining to your use

of the site or the content, may be brought by you more than one (1) year after such action has accrued.

## **I. ARBITRATION OF DISPUTES**

Any dispute or claim relating in any way to the services or this agreement will be resolved by binding arbitration, rather than in court, except for equitable relief as provided above, and except that you may assert claims in small claims court if your claims qualify. The Federal Arbitration Act governs the interpretation and enforcement of this provision; the arbitrator shall apply Pennsylvania law to all other matters. Notwithstanding anything to the contrary, any party to the arbitration may at any time seek injunctions or other forms of equitable relief from any court of competent jurisdiction. We each agree that any and all disputes must be brought in the parties' individual capacity and not as a plaintiff or class member in any purported class or representative proceeding. By entering into this agreement and agreeing to arbitration, you agree that you and Art Auction Analytics - are each waiving the right to file a lawsuit and the right to a trial by jury. In addition, you agree to waive the right to participate in a class action or litigate on a class-wide basis. You agree that you have expressly and knowingly waived these rights.

To begin an arbitration proceeding, send a letter requesting arbitration and describing your claim to Art Auction Analytics, LLC, 206 Radnor Chester Road, Villanova, PA 19085. Arbitration will be conducted by the American Arbitration Association (AAA) before a single AAA arbitrator under the AAA's rules, which are available at [www.adr.org](http://www.adr.org) or by calling 1-800-778-7879. Payment of all filing, administration and arbitrator fees and costs will be governed by the AAA's rules. We will not seek its attorneys' fees or costs in arbitration unless the arbitrator determines your claims or defenses are frivolous. You may choose to have the arbitration conducted by telephone, based on written submissions, or in person in Delaware County, Pennsylvania. The decision of the arbitrator shall be final and not appealable, and judgment on the arbitration award may be entered in any court having jurisdiction thereof. This Section Arbitration of Disputes shall survive expiration, termination or rescission of this agreement.