

## SELLER-DEALER AGREEMENT

This Seller-Dealer Agreement (this "Agreement") is between \_\_\_\_\_ ("Seller") and \_\_\_\_\_ ("Dealer") effective as of \_\_\_\_\_, 20\_\_\_\_ (the "Effective Date"). Hereinafter, Seller and Dealer may be jointly referred to as the "Parties" or individually as a "Party."

WHEREAS, Seller is the owner of, or retains the right to sell, certain artwork (the "Artwork") and desires to have Dealer coordinate the potential sale of the Artwork through Artist Estate, Inc. dba FineArtEstates.com ("FAE") which uses a Serrace sales price system (with decreases in sales price for unsold Artwork based upon a pre-determined time based schedule) (the "Serrace System") (with the overall process of selling the Artwork through FAE's website using the Serrace System being referred to herein as the "FAE System");

NOW THEREFORE, for the mutual promises of the Parties and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the undersigned agree as follows:

1. Term. This Agreement shall remain in full force and effect from the Effective Date until terminated pursuant to the terms of this Agreement. Either Party may terminate this Agreement, at any time, upon thirty (30) days written notice to the other Party; provided, however, that such termination shall not terminate or affect any Artwork that has a listing published, sale pending, sold, or equivalent status on the FAE System website [www.fineartestates.com](http://www.fineartestates.com) (the "Website"). In addition, if Seller terminates this Agreement and Dealer has been in possession of the Artwork for less than 180 days, then Seller must pay the Dealer commission based on the pull price. The Party that terminates this Agreement must pay the cost of returning the Artwork to Seller.

2. FAE. Dealer has a contract with FAE detailing the terms and conditions for the sale of artwork, including, without limitation, Seller's Artwork, which Dealer may list with FAE. Dealer may work with artwork owners other than Seller in connection with other listings with FAE. FAE is an online consignment seller of artwork. FAE has established guidelines for the operation of its ecommerce marketplace as described in more detail at the Website. No Artwork will be listed by FAE unless accepted by Dealer and FAE, as determined in their sole discretion.

3. Selection of Artwork. Seller and Dealer will meet to review proposed Artworks to determine if they are a good fit to be sold on the FAE System. Dealer will only accept Artworks they feel are appropriate to be placed on the FAE Website based on their opinion of each work's value, quality, condition, and salability. FAE reserves the right to remove any Artwork on the FAE Website.

4. Collections. If the Artworks chosen by Dealer to sell on the FAE Website constitute a collection, they may recommend to a Seller that they use the "Collections" feature of the FAE Website to help promote the Artworks as a group. If available, the Seller should provide the Dealer with an image of the person or persons who acquired the Collection and help the Dealer create a

history of the Collection along with supplying support materials. There must be at least four associated Artworks to use the “Collections” feature.

5. Artwork Addendum. For the selected Artwork, Seller and Dealer will enter into a separate written Addendum to be added to this Agreement. An Addendum may have multiple described Artworks, but must contain, in addition to important features of each Artwork, the minimum following information: start price, pull price, and the net proceeds (Seller may also be responsible for other fees and expenses as set forth in the Artwork Addendum).

6. Dealer Authority. Dealer will have full authority to deal with FAE in connection with the listing and sale of the Artwork, including, without limitation, final authority for establishing the pricing through the Serrace System within the start and pull price listed on the Addendum. FAE may rely fully on Dealer’s authority and FAE has no responsibility or requirement to confirm with Seller or any third party any terms or conditions which Dealer may agree upon in connection with the Artwork listing with FAE.

7. Dealer Responsibilities and Obligations. Dealer is responsible for, and will perform, the following:

- (a) Finalizing terms and conditions for listing of Artwork with FAE;
- (b) Dealer will be responsible for all biographical materials turned over to Dealer by Seller (regarding both the Seller and the artist, as applicable). After Dealer has no more use of the provided biographical information, Dealer will follow the wishes and instruction of Seller as to how to handle the materials in their care. Dealer will provide Seller with a written receipt for any information received relating to the Artwork;
- (c) Dealer will insure the Artwork for the start price or sale price (whichever is less) minus any agreed commissions during delivery to Dealer’s facility and while located at Dealer’s facility, and, if requested, during delivery to Buyer (if Dealer arranges shipping);
- (d) Within 14 days from the date the Seller’s Artwork status is changed to “Sold,” Dealer will pay Seller the balance of the sale price received (after deducting the agreed commission, and any other fees or expenses, as stated in the Addendum for the Artwork). Delivery of receipt of funds will be confirmed through the FAE Website with a change of status of the transaction from “Purchased” to “Sold.” FAE has no duty or responsibility to remit any funds directly to Seller; and
- (e) If the Artwork is damaged or lost while in Dealer’s possession, Dealer agrees to pay Seller an amount equal to the start price or sale price (whichever is less) minus any agreed commissions.

8. Artwork Shipment. Dealer and Seller will mutually approve the process for shipment of the Artwork to Dealer’s facility, including, without limitation, which Party will bear the cost for shipment, the manner in which shipment will be made and the Party responsible for coordinating the shipping effort. All shipments should be packed in a sufficient manner to ensure that no damage will occur during the shipping process. It is recommended that the Party responsible for the shipping should take either a video or still photographs to confirm the

procedures used and the care taken to prevent damage during shipment. The Parties will also agree upon the Party to bear the cost of return shipment to Seller (or other disposition) if the Artwork does not sell. Whichever Party arranges the shipment shall make sure the Artwork is insured during shipment.

9. Seller Responsibilities and Obligations. Seller is responsible for, and will perform, the following:

- (a) Seller will provide all pertinent and necessary information regarding Seller;
- (b) Seller will authorize start price, pull price, and commission for each Artwork;
- (c) Seller will deliver to Dealer originals or copies of information related to the artist and determine what they want done with these materials when Dealer is finished with them;
- (d) Seller will provide Dealer with any known or requested relevant information or documentation about the Artwork approved for listing, including, without limitation: original bill of sale, authorship, provenance and condition;
- (e) Seller will, upon Dealer's request, deliver possession or make available upon reasonable notice all Artwork approved for listing; and
- (f) Seller will deliver the Artwork free from all liens claims or encumbrances.

Seller acknowledges and agrees that all information provided to Dealer regarding Seller, the Artwork or the artist may be used by Dealer, and disclosed by Dealer to FAE for FAE's use with the FAE System, in connection with the listing, sale, and delivery of the Artwork.

10. Seller's Representations and Warranties. Seller represents and warrants to Dealer and FAE that:

- (a) Seller is the sole owner, or has full authority and right to sell, the Artwork; and
- (b) Seller has the right, power and authority to grant the rights described herein.

11. Exclusive Sales Arrangement with Dealer. For any Artwork listed on an Addendum, Dealer is the sole party with the right to list and sell the Artwork. Any attempted sale of the Artwork by the Seller while it is bound by this Agreement with the Dealer is null and void.

12. Fees Payable to Artist. It is Seller's obligation to notify Dealer, in writing, of any fees payable to artist upon a sale of the Artwork (whether by prior agreement or under applicable law). Seller agrees to confirm the arrangement for payment with Dealer (as documented on the Addendum for the Artwork). Seller agrees to indemnify, defend and hold harmless Dealer and FAE for any claims, charges, demands, costs, royalties or expenses alleged by any artist, or any other third party, for fees, royalties or commissions payable as a result of the sale of the Artwork.

13. Display Rights. Seller hereby grants and assigns to Dealer all display rights relating to the Artwork in connection with the listing and sale of the Artwork through the FAE System, including, without limitation, all associated copyright licenses for such action, to allow Dealer to grant and assign these rights to FAE. These rights include the full authority to use images of the Artwork to promote the sale of the Artwork through the FAE System in any manner that Dealer

and/or FAE deem appropriate. This includes the right and authority of Dealer and/or FAE to grant and assign these rights to third parties; provided, however, that such third parties rights are limited to a use in connection with the sale of the Artwork through the FAE System. The rights granted to FAE include, without limitation, the right (after any sale or attempted sale) to continue the display the Artwork on the Website or other promotional material identifying the Artwork as a piece of artwork previously listed and/or sold on the Website. This grant of rights also includes the right and authority to identify Seller and the artist, along with any biographical or other supporting information or material provided by Seller to Dealer and/or FAE relating to the Artwork, Seller or the artist.

14. Disclaimer. Seller acknowledges and agrees that there is no guaranty that the Artwork will sell, or the price upon which it may sell. Seller acknowledges and agrees that it has no right to bring any claim or charge directly against FAE. Seller's rights under this Agreement are limited to claims against Dealer.

15. Seller Indemnification. Seller agrees to indemnify, defend and hold harmless Dealer and FAE, and each of their respective owners, officers, directors employees and representatives, from all costs, damages, claims and expenses (including, without limitation, attorneys' fees and costs) (collectively, the "Claims") arising from or related to any breach or alleged breach of this Agreement, including, without limitation, all Claims related to: (i) Seller's lack of authority to list and sell the Artwork; (ii) Seller's lack of authority to grant the display rights stated herein; and/or (iii) the sale, or attempted sale, of the Artwork by Seller or any third party while the Artwork is listed with FAE.

16. Intended Third Party Beneficiary. While FAE is not a direct signing party to this Agreement, and FAE has no duties or obligations to Seller under this Agreement, Seller acknowledges and agrees that FAE is an intended third party beneficiary under this Agreement. As such, FAE may enforce its rights directly against Seller, including, without limitation, protections and rights afforded to FAE under the indemnification terms of this Agreement. Seller agrees that FAE's status as an intended third party beneficiary under this Agreement is reasonable and necessary to protect FAE's legitimate business interests.

17. Confidentiality. Seller and Dealer agree that the terms and conditions of this Agreement are personal and confidential as between the two of them. Neither Party will disclose the terms and conditions of this Agreement to any third party other than FAE, except as necessary for such third party to fulfill their duties and responsibilities regarding the listing, sale and delivery of Seller's Artwork. Notwithstanding the preceding, the Parties agree that FAE may post a standard version of this Agreement (without specific starting prices, pull prices, commission rates or other terms unique to an individual Seller or Dealer), and such posting by FAE shall not be a violation of this Section 17 or any other obligation or responsibility of FAE.

18. Notices. All notices, requests, consents, and other communications under this Agreement shall be in writing and shall be deemed to have been delivered on the date: (i) personally delivered, (ii) two (2) days after the date of deposit in the United States Postal Service, postage prepaid, by certified mail, return receipt requested, or (3) the date of delivery by email with delivery confirmation, if emailed prior to 3:00 pm Central Time, otherwise the business day

following the date of email delivery, if addressed to the respective parties at the addresses below the signature of the parties below. Either Party hereto may designate a different address by updating their on-line FAE profile or providing written notice of such new address to the other Party hereto.

19. Waiver. The waiver by one Party of a breach of any provision of this Agreement by the other Party shall not operate or be construed as a waiver of any subsequent or continuing breach of this Agreement by the waiving Party.

20. Assignment or Other Transfer. Either Party may transfer, assign or sublicense this Agreement, with the prior written consent of the other Party. Each Party agrees to give written notice of an intended assignment of this Agreement to the other Party and FAE at least twenty (20) days prior to the effective date of such assignment.

21. Binding Effect. This Agreement shall be binding upon and inure to the benefit of the Parties hereto, including any successors or assigns.

22. Entire Agreement. This Agreement, with additional Addendums to this Agreement which may be entered into between the Parties from time to time, embodies the entire agreement and understanding between such Parties, with respect to the matters covered hereby. This Agreement cancels and supersedes all prior negotiations and understandings between the Parties relating to the subject matter hereof.

23. Amendment. This Agreement may be amended only by an instrument in writing executed by the Parties hereto and FAE.

24. Governing Law; Venue. This Agreement shall be construed and enforced in accordance with and governed by the laws of the State of Texas, and exclusive venue for any proceeding relating to this Agreement shall lie with the state and federal courts located in Dallas County, Texas.

25. Time Deadlines. The deadline for the performance of any action under this Agreement shall expire as of 5:30 pm Central Standard Time as of the day in question (or the next business day if a deadline expires on a Saturday, Sunday or a holiday in which Bank of America branches in the State of Texas are closed).

26. Payment. All payments referenced herein or required in the FAE System are to be made in U.S. Dollars. Each Buyer is responsible for any currency exchange to permit payments to be made in U.S. Dollars.

{ Signature Page to Follow }

IN WITNESS WHEREOF, the undersigned have set their hands.

**Dealer:** \_\_\_\_\_ **Seller:** \_\_\_\_\_

Address: \_\_\_\_\_ Address: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Email: \_\_\_\_\_ Email: \_\_\_\_\_

Signed: \_\_\_\_\_ Signed: \_\_\_\_\_

Print Name: \_\_\_\_\_ Print Name: \_\_\_\_\_

Date: \_\_\_\_\_ Date: \_\_\_\_\_