

TERMS OF SERVICE

Last Updated: [20/10/2021]

THESE TOS CONTAIN AN ARBITRATION PROVISION AND CLASS ACTION WAIVER WHICH LIMIT YOUR RIGHT TO HAVE A DISPUTE HEARD IN COURT. PLEASE READ THESE TOS AND THE ARBITRATION PROVISION AND CLASS ACTION WAIVER CAREFULLY.

Welcome to Bewearcy! Bewearcy solution, Inc. (together with Our affiliates, “**Bewearcy**”, “**We**”, “**Us**”, or “**Our**”) provides access to a marketplace for sales of luxury resale items and art online and via brick and mortar locations. These Terms of Service (these “**TOS**”) govern Your access to and use as an end user (“**User**”, “**You**” or “**Your**”) of Our website (available at <https://www.bewearcy.com/>), any other websites that link to these TOS, and any associated features, functionalities, user interfaces, downloads, mobile applications, Content (as defined below) and other online services that We operate or control (collectively, the “**Service**”).

BY CREATING AN ACCOUNT, ACCESSING OR USING THE SERVICE, OR OTHERWISE INDICATING YOUR ASSENT TO THESE TOS, YOU ACKNOWLEDGE THAT YOU HAVE READ AND UNDERSTAND, AND AGREE TO BE BOUND BY, THESE TOS AND HAVE THE LEGAL AUTHORITY TO ENTER INTO THESE TOS (ON BEHALF OF YOURSELF OR THE ENTITY YOU REPRESENT). IF YOU DO NOT AGREE TO BE BOUND BY THESE TOS, OUR PRIVACY POLICY, AND ANY ADDITIONAL TERMS THAT APPLY YOU MAY NOT USE OR ACCESS THE SERVICE IN ANY WAY.

These TOS incorporate Our Privacy Policy (available at <http://www.us.bewearcy.com/privacy.pdf>) (“**Privacy Policy**”). In addition, consumer consignors (or sellers) are subject to the Consignment/Sales Agreement governing consumer consignment or sale of items on the Service (available at <https://www.us.bewearcy.com/terms.pdf>) and the sale of art is subject to the “**Fine Art Conditions of Sale**” set out separately below (collectively, “**Additional Terms**”).

1. ELIGIBILITY

In order to use the Service, You must be 18 years or older. If You are under the age of 18, You are prohibited from accessing or using the Service. You may not have more than one active Account (defined below). Additionally, You are prohibited from selling, trading, or otherwise transferring Your Account to another party. If You do not meet the foregoing eligibility requirements, You may not use the Service. You are not permitted to access the Service if Your Account has been suspended or removed by Us for any reason.

1. PRIVACY

By accessing or using the Service, You acknowledge and accept Our Privacy Policy (available at <http://www.us.bewearcy.com/privacy.pdf>), which discloses how We collect, use, and share information about You.

1. **CONTENT LICENSE; OWNERSHIP**

(a) License

The Service contains a variety of: (a) materials and other items relating to Us and Our products and services, and similar items from Our licensors and other third parties, including digital content, products, services, and materials that may be developed or otherwise made available from time to time for You to view, purchase, or download, all layout, information, articles, reports, posts, text, data, files, images, scripts, designs, graphics, descriptions, button icons, instructions, illustrations, photographs, audio clips, music, sounds, pictures, videos, advertising copy, URLs, technology, software, interactive features, the “look and feel” of the Service, and the compilation, assembly, and arrangement of the materials of the Service and any and all copyrightable material; (b) trademarks, logos, trade names, trade dress, service marks, and trade identities of various parties, including Us (collectively, “**Marks**”); and (c) other forms of intellectual property (all of the foregoing, collectively, “**Content**”).

(b) Limited License

Content is licensed, not sold, to You by Us. Subject to Your strict compliance with these TOS and any Additional Terms, We hereby grant to You a limited, non-exclusive, revocable, non-assignable, non-sublicensable, personal, non-transferable license to view, download (in temporary storage only), and display the Content (excluding source and object code in raw form or otherwise, other than as made available to access and use to enable display and functionality) on supported devices for Your personal use or internal business purposes solely through the Service (the “**Limited License**”). The Limited License will remain in effect until and unless We or You terminate the license.

(c) Ownership

All right, title, and interest in and to the Service is Our property or Our licensors or certain third parties’ property, all of which is protected by U.S. and international intellectual property laws. Except as explicitly stated in these TOS, We, Our licensors and such other third parties reserve all rights in and to the Service.

1. **YOUR ACCOUNT**

(a) Account Security

In order to access the Service, You may need to sign-up or otherwise create an account with the Service (an “**Account**”), for yourself or on behalf of a company, organization, entity, or brand (a “**Company**”) or use Your or Your Company’s credentials (e.g., username and password) if

provided from a third-party social media or other platform (e.g., Google, Facebook, etc.). You represent, warrant and covenant that all information You provide in connection with creating, accessing and using Your Account is accurate, current and complete. You will promptly update such information if it changes at any point. If You provide any information that is or becomes (or if We have reasonable grounds to suspect that such information is) false, inaccurate, outdated or incomplete, or violates these TOS, the Privacy Policy, Additional Terms, or any applicable law, We may suspend or terminate Your Account and refuse any and all current or future use of the Service (or any portion thereof). You are solely responsible for maintaining the confidentiality of Your Account credentials. You accept sole responsibility for all activities that occur under Your Account, username or password– whether or not You authorized the activity – and You will not sell, transfer, or assign Your Account or any Account rights to any third party. Because of this, We strongly recommend that You exit from Your Account at the end of each session. You must notify Us immediately of any unauthorized use of Your Account or any other breach of security. We will not be liable for any loss or damage (of any kind and under any legal theory) to You or any third party arising from Your inability or failure for any reason to comply with Your responsibilities in this Section.

(b) Account Authorization

If You register an Account on behalf of a Company, the terms “You” and “Your,” as used throughout these TOS apply to both You and the Company. You represent and warrant that You are authorized to grant all permissions and licenses provided in these TOS (and any Additional Terms) and to bind the Company to these TOS (and any Additional Terms).

(c) Account Preferences

We may offer You the ability to set preferences relating to Your Account or Service activities, but settings may not become effective immediately or be error free, and options may change from time to time.

1. USER-SUBMITTED POSTINGS

(a) General

The Service may provide You with the ability to create, post, upload, display, publish, transmit, broadcast, share, or otherwise make available content, including messages, text, illustrations, files, images, graphics, photographs, ratings, reviews, questions, products, listings, descriptions and images of goods or services, resources or other information or materials (together, “**Postings**”). We are under no obligation to screen, edit or monitor any Postings and assume no responsibility or liability relating to any such Postings. However, We may delete or remove Postings, with or without notice, at any time and for any reason.

(b) Restrictions

You acknowledge that You are responsible for any Postings You may submit through the Service, including the legality, reliability, appropriateness, originality and copyright of any such Postings. Each time You submit a Posting, You represent and warrant that You are not submitting any Posting that:

1. is confidential, proprietary, invasive of privacy or publicity rights, infringing on intellectual property rights, misleading, non-compliant advertising, unlawful, harmful, threatening, false, fraudulent, libelous, defamatory, obscene, vulgar, profane, abusive, harassing, hateful, racially, ethnically or otherwise objectionable, including, but not limited to any content that encourages conduct that would constitute a criminal offense, violates the rights of any party or otherwise gives rise to civil liability or otherwise violates any applicable U.S. or foreign laws;
2. may contain software viruses or malware, corrupted data or other harmful, disruptive or destructive files or content;
3. contains or depicts any statements, remarks or claims that do not reflect Your honest views and experiences or is designed to impersonate others or misrepresent Your affiliation with any person or entity;
4. contains personal information (such as messages that include phone numbers, Social Security numbers, payment card numbers, account numbers, addresses or employer references), except where We expressly ask You to provide such information or contains private or personal information of a third party without such third party's consent;
5. contains messages by any of Our employees (that are not official spokespersons for Us) purporting to speak on behalf of Us or containing confidential information or expressing opinions concerning Us or the Service;
6. contains multiple messages placed within individual folders by the same User restating the same point;
7. contains chain letters of any kind, any unsolicited promotions, political campaigning, advertising or solicitations or other commercial content;
8. in Our sole judgment, is objectionable or that restricts or inhibits any other person from using or enjoying the Service, or that may expose Us or others to any harm or liability of any type;
9. contains identical (or substantially similar) messages to multiple recipients advertising any product or service, expressing a political or other similar message, or any other type of unsolicited commercial message; this prohibition includes but is not limited to (i) using the invitation functionality that may be available on the Service to send messages to people who do not know You or who are unlikely to recognize You as a known contact; (ii) using the Service to connect to people who do not know You and then sending unsolicited promotional messages to those direct connections without their permission; or (iii) sending messages to distribution lists, newsgroup aliases or group aliases
10. violates these TOS, the Privacy Policy or any Additional Terms.

(c) Postings License

You hereby grant Us a perpetual, irrevocable, worldwide, royalty-free, transferable, non-exclusive, unrestricted, unconditional, royalty-free, fully-paid license to use, copy, reproduce, distribute, publicly display, modify, adapt, publish, translate, sell, resell, sublicense (through multiple tiers), create derivative works from, and otherwise use and exploit all or any portion of Your Postings (and derivative works thereof) for any lawful purpose. Except as prohibited by law,

You hereby waive, and You agree to waive, any moral rights (including attribution and integrity) that You may have in any Postings, even if it is altered or changed in a manner not agreeable to You. To the extent not waivable, You irrevocably agree not to exercise such rights (if any) in a manner that interferes with any exercise of the granted rights.

(d) Publicity License

To the extent necessary, when You appear in or contribute Postings, You also grant Us the unrestricted, worldwide, royalty-free, perpetual right and license to use Your name, image, likeness, and voice. This means, among other things, that You will not be entitled to any compensation from Us if Your name, image, likeness, or voice is conveyed on or through the Service.

(e) Non-Confidentiality

When You submit Postings on or through the Service, You understand that Your Postings and any associated information (such as Your username or photos) may be visible to other Users. Consequently, (a) Your Postings will be treated as non-confidential – regardless of whether You mark them “confidential,” “proprietary,” or the like – and will not be returned, and (b) We do not assume any obligation of any kind to You or any third party with respect to Your Postings.

1. PROHIBITED CONDUCT

You are solely responsible for Your conduct while accessing or using the Service and in addition to the “**Restrictions**” in **Section 5(b)** above as well as Our Real Respect Guidelines (available on our website and which We may modify or amend from time to time).

You will not:

1. sell, rent, lease, distribute, broadcast, publicly perform, publicly display, sublicense, or otherwise assign any rights to the Service or any portion of it to any third party;
2. remove or modify any proprietary notices or labels on the Service or otherwise make any derivative uses of the Service;
3. cache, create unauthorized hypertext links to the Service or frame any Content;
4. use any data mining, robots, or similar data gathering and extraction tools, or bypass or ignore instructions contained in Our robots.txt file or equivalent restrictive technologies that control automated access to portions of the Service;
5. use Marks as metatags on other pages or sites on the Internet;
6. use or attempt to use another User’s Account without authorization from that User and Us;
7. use the Service in any manner that could interfere with, disrupt, negatively affect or inhibit other Users from fully enjoying the Service or that could damage, disable, overburden, or impair the functioning of the Service or Our infrastructure (in Our sole discretion) in any manner;
8. reverse engineer any aspect of the Service or do anything that might discover source code or bypass or circumvent measures employed to prevent or limit access to any part of the Service;

9. attempt to circumvent any content-filtering or access restriction techniques We employ or attempt to access any feature or area of the Service that You are not authorized to access;
10. copy, download, redistribute, reproduce, “rip”, record, transfer, display to the public, broadcast, or make available to the public or another vendor or third party any part of the Service, or otherwise make any use of the Service not expressly permitted under these TOS, any Additional Terms, or applicable law, or which otherwise infringes the intellectual property rights (such as copyright) in the Service or any part of it;
11. develop or use any third-party applications that interact with the Service without Our prior written consent, including any scripts designed to scrape or extract data from the Service; or
12. violate any laws, regulations, governmental orders, or industry standards or guidance in any applicable jurisdiction.

1. AUTHENTICATION AND BRANDS

Our product authentication process is independently conducted in-house by Our team. Brands identified on or through the Service: (i) are not involved in the authentication of the products being sold through the Service, and (ii) do not assume responsibility for any products purchased from or through the Service. Brands sold on or through the Service are not partners or affiliates of Us in any manner. However, We fully cooperate with brands seeking to track down the source of counterfeit items, which may include, when required by court order or directive of law enforcement, revealing the contact information of consignors submitting counterfeit goods. We may also, when required by court order or directive of law enforcement, reveal to brands the contact information of consignors submitting products that have been challenged as infringing, unapproved, suspicious, potentially stolen, or offered for sale in an unauthorized geographic market.

1. DISCLAIMER OF WARRANTIES

YOUR ACCESS TO, AND USE OF THE SERVICE IS AT YOUR SOLE RISK. EXCEPT FOR THE EXPRESS AUTHORSHIP WARRANTY PROVIDED IN THE FINE ART CONDITIONS OF SALE, THE SERVICE IS PROVIDED TO YOU “AS IS” AND “AS AVAILABLE” WITHOUT WARRANTY OF ANY KIND EITHER EXPRESS OR IMPLIED INCLUDING, BUT NOT LIMITED TO, THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE, TITLE, NON-INFRINGEMENT, SECURITY OR ACCURACY. WE DO NOT REPRESENT OR WARRANT THAT THE SERVICE IS ACCURATE, COMPLETE, RELIABLE, CURRENT OR ERROR-FREE, OR THAT THE QUALITY OF ANY PRODUCTS, SERVICES, INFORMATION, OR OTHER MATERIAL PURCHASED OR OBTAINED BY YOU THROUGH THE SERVICE WILL MEET YOUR EXPECTATIONS. WHILE WE ATTEMPT TO MAKE YOUR ACCESS TO AND USE OF THE SERVICE SAFE, WE CANNOT AND DO NOT REPRESENT OR WARRANT THAT THE SERVICE IS FREE OF VIRUSES OR OTHER HARMFUL COMPONENTS.

ALL THIRD-PARTY MATERIALS ARE PROVIDED “AS IS” WITHOUT ANY REPRESENTATION OR WARRANTY WHATSOEVER. IT IS YOUR RESPONSIBILITY TO EVALUATE THE ACCURACY, COMPLETENESS OR USEFULNESS OF ANY OPINION, ADVICE OR OTHER

CONTENT AVAILABLE THROUGH THE SERVICE OR OBTAINED FROM A LINKED SITE OR THIRD-PARTY MATERIALS. PLEASE SEEK THE ADVICE OF PROFESSIONALS, AS APPROPRIATE, REGARDING THE EVALUATION OF ANY SPECIFIC OPINION, ADVICE, PRODUCT, SERVICE, OR OTHER CONTENT.

REFERENCE TO ANY PRODUCTS, SERVICES, PROCESSES OR OTHER INFORMATION BY TRADE NAME, TRADEMARK, MANUFACTURER, SUPPLIER, VENDOR OR OTHERWISE DOES NOT CONSTITUTE OR IMPLY ENDORSEMENT, SPONSORSHIP OR RECOMMENDATION THEREOF, OR ANY AFFILIATION THEREWITH, BY US.

1. LIMITATION OF LIABILITY

BEWEARCY PARTIES (AS DEFINED BELOW) WILL NOT BE LIABLE TO YOU UNDER ANY THEORY OF LIABILITY, WHETHER BASED IN CONTRACT, TORT, NEGLIGENCE, STRICT LIABILITY, WARRANTY, OR OTHERWISE, AND WHETHER BEWEARCY PARTIES WERE ADVISED OF OR SHOULD HAVE KNOWN OF THE POSSIBILITY OF SUCH LOSSES OR DAMAGES, FOR ANY DIRECT, INDIRECT, INCIDENTAL, SPECIAL, CONSEQUENTIAL OR EXEMPLARY DAMAGES, INCLUDING, BUT NOT LIMITED TO, DAMAGES FOR LOSS OF PROFITS, GOODWILL, USE, DATA OR OTHER INTANGIBLE LOSSES.

EXCEPT AS MAY BE PROVIDED IN ANY ADDITIONAL TERMS, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, THE AGGREGATE LIABILITY OF BEWEARCY PARTIES, FOR ANY CLAIM ARISING OUT OF OR RELATING TO THE TOS OR THE SERVICE, REGARDLESS OF THE FORM OF ACTION, IS LIMITED TO THE GREATER OF (A) TWO THOUSAND US DOLLARS (\$2,000.00), OR (B) THE AMOUNT WE HAVE ACTUALLY RECEIVED AS A RESULT OF SELLING YOUR PROPERTY THROUGH THE SERVICE IN THE TWELVE MONTHS PRECEDING THE DATE ON WHICH THE CLAIM AROSE.

THE LIMITATIONS SET FORTH IN THIS SECTION WILL NOT LIMIT OR EXCLUDE LIABILITY FOR: (i) DAMAGE ARISING FROM A GROSSLY NEGLIGENT BREACH OF DUTY BY BEWEARCY OR FROM AN INTENTIONAL OR GROSSLY NEGLIGENT BREACH OF DUTY BY A LEGAL REPRESENTATIVE OF BEWEARCY OR A PERSON USED TO PERFORM AN OBLIGATION OF BEWEARCY; OR (ii) ANY OTHER MATTERS IN WHICH LIABILITY CANNOT BE EXCLUDED OR LIMITED UNDER APPLICABLE LAW (OR FOR ANY AUTHORSHIP WARRANTY CLAIMS UNDER THE FINE ART CONDITIONS OF SALE, BUT ONLY TO THE EXTENT PROVIDED THEREIN). ADDITIONALLY, SOME JURISDICTIONS DO NOT ALLOW THE EXCLUSION OR LIMITATION OF INCIDENTAL OR CONSEQUENTIAL DAMAGES, SO THE ABOVE LIMITATIONS OR EXCLUSIONS MAY NOT APPLY TO YOU, AND YOU MIGHT HAVE ADDITIONAL RIGHTS.

1. INDEMNITY

To the fullest extent permitted by applicable law, You will indemnify, defend (at Our option) and hold Us and Our officers, directors, employees, agents, third-party providers, licensors, partners

and successors and assigns (individually and collectively, the “**Bewarecy Parties**”) harmless from and against any and all fines, penalties, liabilities, losses, governmental inquiries, investigations, and proceedings and other damages, costs and expenses of any kind whatsoever (including reasonable attorneys’ and experts’ fees) incurred in connection with any third-party claim, demand, cause of action, suit, investigation, arbitration, or other proceeding (collectively, “**Claims**”) directly or indirectly arising out of: (a) Your access to or use of the Service or any Third-Party Materials; (b) Your actual or alleged breach of these TOS or any Additional Terms; (c) Your Postings and Bewearcy Parties’ use of any information that You submit to Us; and/or (d) any fraud, misrepresentation, manipulation, intentional misconduct, gross negligence or other violation of any applicable laws in connection with Your use of the Service or Your activities in connection with the Service. Bewearcy Parties may take control of the defense or settlement of any Claim and You will cooperate with Bewearcy Parties in defending such Claims. In any event, You will not settle any Claim without Our prior written approval. For the avoidance of doubt, if You are a Company (or representing a Company), Your obligations hereunder will extend to indemnification based on the acts and omissions of Your employees, consultants and agents.

If You are a California resident, You expressly waive any rights You may have under California Civil Code Section 1542 (or analogous laws of other states), which says: “A general release does not extend to claims that the creditor or releasing party does not know or suspect to exist in his or her favor at the time of executing the release and that, if known by him or her, would have materially affected his or her settlement with the debtor or released party.”

1. FORCE MAJEURE

We will be excused from performance under these TOS to the extent We are prevented from, or delayed from performing, in whole or in part, as a result of an event or series of events caused by or resulting from (a) weather conditions or other elements of nature or acts of God, (b) acts of war, acts of terrorism, insurrection, riots, civil disorders or rebellion, (c) quarantines, epidemics, pandemics, (d) embargoes or labor strikes, or (e) other causes beyond Our reasonable control. In the event that We are temporarily unable to ship to You a purchased item because of such an event, We will give You the option of deferring shipment or receiving a refund of Your charges if and as applicable in accordance with Our then-current policies.

1. DISPUTE RESOLUTION; MANDATORY BINDING ARBITRATION; CLASS ACTION WAIVER PLEASE READ THIS SECTION CAREFULLY TO UNDERSTAND YOUR RIGHTS BECAUSE IT REQUIRES YOU TO ARBITRATE CERTAIN DISPUTES AND CLAIMS WITH US AND LIMITS THE MANNER IN WHICH YOU CAN SEEK RELIEF FROM US.

(a) Scope

For all matters, disputes, or claims between You and Us arising from or related to this Agreement or Your relationship with Us, whether based in contract, tort, statute, fraud, misrepresentation or any other legal theory, including any dispute about the interpretation or application of this dispute resolution provision or the enforceability, revocability or validity of this arbitration provision or any

portion of the arbitration provision (“**Disputes**”), will be resolved by the processes and procedures described in this Section, first amicably and then through final and binding arbitration before a neutral arbitrator instead of in a court by a judge or jury. **EACH PARTY WAIVES ITS RIGHTS TO A JURY TRIAL AND TO HAVE ANY DISPUTE ARISING OUT OF OR RELATED TO THESE TOS OR THE SERVICE RESOLVED IN COURT.**

(b) Amicable Resolution

In the event of a Dispute, You will negotiate in good faith with Us to informally resolve the Dispute. You may notify Us of a Dispute by emailing Us at support@bewarecy.com or by writing a letter to Bewearcy solution, Inc., Attn: 8 The Green Street, Dover, DE 19901. The notice must specifically describe the nature of the Dispute and the relief You seek. The parties will have sixty (60) days from the date of receipt of such a notice to try to resolve the Dispute (or such longer period as the parties may agree in writing). If the Dispute is not resolved satisfactorily within sixty (60) days after either party receives notice from the other party in accordance with “**Notices**” at **Section 21** below, either You or We can submit the Dispute to binding arbitration in accordance with the arbitration provisions below.

(c) Binding Arbitration

Except for any consumer controversy or claim properly filed and pursued in small claims court on an individual basis (as explained in “**Small Claims Court Option**” in **Section 12(d)** below), any Dispute that remains unresolved after an attempt to resolve it informally will be resolved by binding arbitration brought on an individual basis, in which case either You or We may commence confidential binding arbitration under the terms in this Section. The arbitration will be administered by the American Arbitration Association (AAA) under the following rules: (i) if You entered into these TOS individually, its Consumer Arbitration Rules (available online at www.adr.org or by calling 1-800-778-7879), as amended by these TOS, and (ii) if You entered into these TOS as a Company or as a representative of a Company, by its Commercial Arbitration Rules. The place of arbitration will be held exclusively in the County of San Francisco, California. The arbitration will be conducted by a single arbitrator, selected by the AAA, in accordance with the applicable Consumer Arbitration Rules or Commercial Arbitration Rules. The arbitration may be held by teleconference or videoconference unless the arbitrator determines upon request by You or by Us that an in-person hearing is appropriate. Any in-person appearances will be held at a location which is reasonably convenient to both parties with due consideration of their ability to travel, the expense and other pertinent circumstances. If the parties are unable to agree on a location, such determination will be made by the arbitrator. The arbitrator’s decision(s) will be final and binding. The arbitrator will have authority to award temporary, interim or permanent injunctive relief or relief providing for specific performance of these TOS, but only to the extent necessary to provide relief warranted by the individual claim

before the arbitrator. Any award of the arbitrator may be entered as a judgment in any court having jurisdiction.

(d) Small Claims Court Option for Consumer Individuals

If You entered into these TOS individually, You have the choice to submit any Dispute before a small claims court, if applicable, instead of having the Dispute resolved by arbitration. You can make this choice either before or after the Dispute is submitted for resolution by Arbitration.

(e) LITIGATION AND CLASS ACTION WAIVER

BY ENTERING INTO THIS ARBITRATION AGREEMENT, YOU ARE WAIVING THE RIGHT TO TRIAL BY JURY FOR ANY CLAIM SUBJECT TO ARBITRATION. ANY ARBITRATION UNDER THESE TERMS WILL TAKE PLACE ON AN INDIVIDUAL BASIS; CLASS ARBITRATIONS, PRIVATE ATTORNEY-GENERAL ACTIONS, CLASS ACTIONS, AND ANY OTHER PROCEEDING WHERE SOMEONE ACTS IN A REPRESENTATIVE CAPACITY ARE NOT PERMITTED, AND YOU ARE AGREEING TO GIVE UP AND WAIVE THE ABILITY TO PARTICIPATE IN A CLASS ACTION. COMBINING INDIVIDUAL PROCEEDINGS WITHOUT THE CONSENT OF ALL PARTIES IS ALSO NOT ALLOWED. DISPUTES REGARDING THE ENFORCEABILITY, REVOCABILITY OR VALIDITY OF THE FOREGOING CLASS ACTION WAIVER WILL BE EXCLUSIVELY RESOLVED BY AN ARBITRATOR APPOINTED BY THE AAA, PURSUANT TO THE APPLICABLE ARBITRATION RULES, AS DETAILED IN THIS SECTION 12.

(f) Injunctive Relief

Notwithstanding any of the foregoing, (i) You or We may seek and obtain temporary injunctive relief in any court of competent jurisdiction, and seeking such measures will not be deemed incompatible with the arbitration provision in this Section or a waiver of the right to arbitrate; and (ii) if You are subject to a version of the TOS with Us that contains a different arbitration provision, then the terms of such other arbitration provision will govern disputes arising out of or related to the TOS or any aspect of the relationship between You and Us, rather than the terms of this Section 12.

(g) Severability

Should any portion of this Section 12 be deemed unenforceable by the arbitrator or a court of competent jurisdiction, the unenforceable portion will be severed without affecting the remainder of this Section 12, which will remain in full force and effect. If the severance of any portion of Section 12 results in any claims proceeding on a class or representative basis, those claims will be litigated in court and not in arbitration; the parties agree to stay any litigation of those claims pending the outcome of any individual claims in arbitration.

1. GOVERNING LAW AND VENUE

These TOS (and any Additional Terms) and Your access to and use of the Service will be governed by and construed and enforced exclusively in accordance with the laws of the State of California, without regard to conflict of law rules or principles (whether of California or any other jurisdiction). Any dispute between You and Us that is not subject to arbitration or cannot be heard in small claims court will be resolved exclusively in the state or federal courts of California and the United States, respectively, sitting in San Francisco County, California. The United Nations Convention on Contracts for the International Sale of Goods will not in any way apply to these TOS, the Service, or the listing, marketing, offer or sale of property through the Service. For European Union (“EU”)-based consumers this choice of law provision applies to the extent that no mandatory consumer protection rules laid down in the EU or national EU member state laws provide for greater consumer protection, in which case, such other laws will apply.

1. ELECTRONIC COMMUNICATIONS

(a) Express Consent

When You create an Account with Us and provide Your email address and/or mobile phone number and/or when You communicate with Us electronically, such as via email or through the Service, **YOU EXPRESSLY CONSENT TO RECEIVING COMMUNICATIONS ELECTRONICALLY AND/OR VIA TEXT MESSAGE, CALLS, AND PUSH NOTIFICATIONS TO YOUR PHONE FROM US AND OUR AFFILIATES**. These communications may include notices about Your Account (e.g., payment authorizations, password changes, unauthorized attempts to access your account, and other transactional information), advertisements, and Your relationship with Us.

You represent that You are the Account holder for the mobile telephone number(s) that You provide. If You change Your mobile telephone number(s), you will notify Us immediately by updating Your number in My Account.

Any consents, authorizations, agreements, notices, disclosures, or other communications that are provided to You electronically and/or in these TOS satisfy any legal communication requirements, including, but not limited to, that such communications be in writing.

(b) Messages You May Receive From Us And Opting Out

We and Our service providers may use automated or manual means to deliver text messages to You if you have a U.S. phone number. Text messages providing You information about orders, items You are selling, or Your Account are sent through Our primary program (“**Service and Support**”), while marketing reminders, cart reminders, selling tips, Bewearcy-sponsored events, promotions, product launches and marketing messages related to Our goods and services are sent through a secondary program (“**Marketing Communications**”).

You may opt out of these communications at any time. Consent to receive marketing text messages and other electronic communications is *not required* to purchase any goods or services. To opt out of receiving text messages regarding your orders and items you're selling, you may reply to any text with the message "STOP," or text "STOP" to 47325 or 53659. To opt out of receiving marketing text message, you may reply to such text messages with "STOP" or text STOP to 53659. You may opt out of any or all text messages, calls, emails, push notifications. You may turn off our push notifications in your phone or computer settings. If you do not have a mobile telephone service rate plan with unlimited text messaging, text message and data rates may apply to each text message you or we send or receive. Please contact Your mobile telephone carrier regarding applicable charges including any applicable roaming charges. We do not impose a separate fee for sending Our text messages.

1. PAYMENT AND BILLING

We may make available the ability to purchase or otherwise obtain certain products or services through the Service (each, a "**Transaction**"). In order to make a Transaction, You may be asked to supply certain relevant information, such as Your credit card number and its expiration date (or other acceptable payment method that We make available to You from time to time), Your billing address and Your shipping information. In the event that the amount of a Transaction exceeds the total credit or funds available for purchase in Your payment account, You may be subject to overdraft or non-sufficient funds charges by the bank issuing Your payment method. We are not responsible for these charges and are unable to assist You in recovering them from Your issuing bank.

Payment processing services are provided by Stripe and are subject to the Stripe Connected Account Agreement, which includes the Stripe Terms of Service (collectively, the "Stripe Services Agreement"). By agreeing to these terms or continuing to use the Services, You agree to be bound by the Stripe Services Agreement, as the same may be modified by Stripe from time to time. As a condition of Us enabling payment processing services through Stripe, You agree to provide Us accurate and complete information about You and your business, and you authorize Us to share it and transaction information related to Your use of the payment processing services provided by Stripe.

By providing a credit card or other acceptable payment method, You represent and warrant that You are authorized to use the designated payment method and that You authorize Us (or Our third-party payment processor) to charge Your payment method for the total amount of Your Transaction (including any applicable taxes and other charges). Verification of information may be required prior to the acknowledgment or completion of any Transaction. If the payment method cannot be verified, is invalid, or is otherwise not acceptable, We will notify You of the issue, and if We are unable to resolve the issue, Your order may be suspended or terminated. If You want to change or update payment information associated with Your Account, You can do so at any time by logging into Your Account and editing Your payment information.

By making a Transaction, You represent that the applicable products or services will be used only in a lawful manner.

1. THIRD-PARTY MATERIALS AND LINKED SITES

The Service may display, include, or make available Content, data, information, applications, plugins, products, services, listings, descriptions and images of goods or services, resources or materials from third parties or provide links to certain third-party websites or applications (collectively, "**Third-Party Materials**"). Any activities in which You engage in connection with any Third-Party Materials are subject to the privacy and other policies, terms and conditions of use and/or sale, and rules issued by the operator of such Third-Party Materials, Third-Party Materials are provided solely as a convenience to You. You will not use any Third-Party Materials in a manner that would infringe or violate the rights of any other party.

1. CHANGES TO THESE TOS

We reserve the right to make changes to Our TOS and Additional Terms at any time. If We make a material modification to these TOS or the Additional Terms, We will notify You by: (i) sending an email to the address associated with Your Account (but note that We are not responsible for Your failure to receive an email due to the actions of Your ISP or any email filtering service); therefore, You should add Bewearcy.com to the list of domains approved to send You email (commonly known as Your "whitelist"); or (ii) displaying a prominent announcement above the text of these TOS or the Additional Terms, as appropriate, for thirty (30) days, with (i) or (ii) being deemed sufficient notification to You of such changes. After notice of a modification to the TOS or the Additional Terms has been posted for 30 days, the notice may be removed. If You choose to continue using the Service after receipt of the notice under (i) above or after such thirty (30) day period in (ii) above, You accept the new TOS and Additional Terms, as relevant. Except for changes by Us as described here, no other amendment or modification of these TOS will be effective unless in writing and signed by both You and Us.

If We make a change to Our Privacy Policy, We will follow the process described in Our Privacy Policy.

If You have any questions or comments about these TOS or the Service, please contact Us by email at support@bewearcy.com. You also may write to Us at: Bewearcy, 8 The Green street, Dover, DE 19901.

1. PROCEDURE FOR CLAIMS OF COPYRIGHT INFRINGEMENT

(a) Copyright Notices

We respect the intellectual property rights of others, and You must do the same when using the Service. We may, in appropriate circumstances and at Our discretion, disable and/or terminate the Accounts of Users who infringe or are believed to be infringing the intellectual property rights of third parties. If You believe that a Posting or Content on the Service infringes any copyright

that You own or control, please send a notice of alleged copyright infringement Your (a “**Copyright Notice**”) to Our designated copyright agent (“**Designated Agent**”) with all of the following information:

1. a legend or subject line that says: “Copyright Notice”;
2. an electronic or physical signature of the person authorized to act on behalf of the owner of the copyright;
3. a description of the copyrighted work that You claim has been infringed or, if multiple copyrighted works are covered by a single notification, a representative list of such works;
4. a description of where the material that You claim is infringing is located on the Service (please be as detailed as possible and provide the URL on which the material appears);
5. Your full name, address, telephone number, and email address;
6. a statement by You that You have a good faith belief that the disputed use is not authorized by the copyright owner, its agent, or the law; and
7. a statement by You, made under penalty of perjury, that the above information in Your Copyright Notice is accurate and that You are the copyright owner or authorized to act on the copyright owner’s behalf.

The Copyright Notice must be sent to Our Designated Agent at via physical mail or email at the following addresses:

Designated Agent: Bewearcy

Mailing Address: 8 The Green Street, Dover, DE 19901

Email Address: support@bewearcy.com

Please note that if You knowingly misrepresent that any activity or material (including Content or Postings) on the Service is infringing, You may be liable to Us for certain costs and damages.

If We are notified by a copyright holder that any Content or Posting infringes a copyright, We may in Our sole discretion remove such Content or Posting from the Service, or take other steps that We deem appropriate, without prior notification to the User or other party who supplied or posted that Content or Posting. If such User or other party believes that the Content or Posting is not infringing, that User may in certain circumstances submit a counter-notification to Us with a request to restore the removed Content or Posting, which We may or may not honor, in Our sole discretion.

(b) Counter-Notifications

If access to Your Postings through the Service is disabled or Your Posting is removed from the Service as a result of a Copyright Notice, and You believe that the disabled access or removal is the result of mistake or misidentification, then You may send a “**Copyright**

Counter-Notification” to Our Designated Agent (as listed in above). The Copyright Counter-Notification must contain the following information:

1. a legend or subject line that says: “Copyright Counter-Notification”;
2. a description of the material that has been removed or to which access has been disabled and the location at which the material appeared before it was removed or access to it was disabled (please include the URL of the Service from which the material was removed or access to it disabled);
3. a statement under penalty of perjury that You have a good faith belief that the material was removed or disabled as a result of mistake or misidentification of the material to be removed or disabled;
4. Your full name, address, telephone number, e-mail address, and the username of Your Account;
5. a statement that You consent to the jurisdiction of the Federal District Court for the judicial district in which Your address is located (or, if the address is located outside the U.S.A., to the jurisdiction of the United States District Court for the Northern District of California), and that You will accept service of process from the person who provided copyright notification to Us or an agent of such person; and
6. Your electronic or physical signature.

Please note that if You knowingly misrepresent that any activity or material (including any Postings) on the Service was removed or disabled by mistake or misidentification, You may be liable to Us for certain costs and damages.

1. MODIFICATION OR TERMINATION OF SERVICE

We reserve the right, without notice and in Our sole discretion, to modify, suspend or cease making the Service (or any function, feature or portion thereof) or the Content (or any portion thereof) available at any time, for any reason without any obligation or liability to You. Likewise, We reserve the right, without notice and in Our sole discretion, to suspend or terminate Your right to access or use the Service (or any portion thereof). We are not responsible for any loss or harm related to Your inability to access or use the Service (or any portion thereof).

1. NOTICES

All notices under this Agreement must be in writing (which includes emails).

If You have any questions or comments about the TOS or the Service or wish to terminate this Agreement, please contact Us by email at: support@bewearcy.com.

You also may write Us at:

Bewearcy solution, Inc.

8 The Green street

Dover, DE 19901

We will provide all notices to You at the email address or physical address that You have provided to Us. You are solely responsible for keeping that information current and accurate.

All agreements, notices, disclosures, and other communications that We provide electronically to You satisfy any legal requirement that such communications be in writing.

1. MISCELLANEOUS

If any term of these TOS is found by any court or arbitrator to be void or otherwise unenforceable, the remainder of this Agreement will remain valid and enforceable as though such term were absent upon the date of the execution of this Agreement. From time to time, We may offer special promotional offers which may or may not apply to Your Account. Headings are for reference purposes only and do not limit the scope or extent of such section. Any failure by You or Us to enforce any provision of these TOS will not constitute a waiver of such provision or of any other provision of these TOS. Except as otherwise expressly provided in these TOS or any Additional Terms, there will be no third-party beneficiaries to these TOS or any Additional Terms. These TOS, Our Privacy Policy and any Additional Terms constitute the entire agreement between You and Us and govern Your use of the Service, superseding any prior agreements between You and Us with respect to the Service. No joint venture, partnership, employment, or agency relationship exists between You and Us as a result of these TOS or Your access to and use of the Service. You are responsible for obtaining access to the Service, and that access may involve third-party fees (such as Internet service provider or airtime charges). In addition, You must provide and are responsible for all equipment necessary to access the Service. Your rights and duties under these TOS (or any Additional Terms) are not assignable by You without Our written consent and any prohibited assignment is null and void. These TOS will inure to the benefit of, and are intended to be enforceable by, the parties and their respective successors and assigns. Any provision of these TOS that imposes or contemplates continuing obligations on You or Us will survive the expiration or termination of these TOS.

FINE ART CONDITIONS OF SALE

CONDITION REPORTS AND DESCRIPTIONS OF PROPERTY

Our knowledge regarding each work of art sold through the Service is partially dependent on information provided to Us by the consignor or seller of such art, and We are not able to and do not carry out exhaustive due diligence on each work of art. We will exercise reasonable care when making express statements in Descriptions (defined below) or condition reports as is consistent with Our role as vendor in this sale and in light of (i) the information provided to Us by the consignor or seller, (ii) scholarship and technical knowledge and (iii) the generally accepted opinions of relevant experts, in each case at the time any such express statement is made.

1. AUTHORSHIP WARRANTY; DISCLAIMER

(a) We warrant for a period of five (5) years from the date of sale by Us, subject to

the exclusions and limitations set forth below, that any art work sold on the Service if described in headings in bold type on the Service to be of a named author, will be authentic and not a forgery (the "Authorship Warranty"). This Authorship Warranty will not apply to works of art whose: (i) description of authorship on the Service as of the sale date corresponded with the generally accepted opinion of scholars or experts or indicated that there was a conflict of opinions; or (ii) authorship as described on the Service as of the sale date is proved inaccurate by means of a scientific process not generally accepted for use until after the sale date or a process which as of the sale date was unreasonably expensive or impractical or likely to have caused damage to the property.

(b) The benefits of the Authorship Warranty are not assignable and will apply only to the original buyer of the work as shown on the order confirmation originally issued by Us when the work was sold.

(c) In any claim for breach of the Authorship Warranty, We reserve the right, as a condition to rescind any sale under this warranty, to require You to provide to Us at Your expense the written opinions of two recognized experts in the field, mutually acceptable to Us and You, before We determine whether or not to cancel the sale or provide a refund under the warranty. We will not be bound by any expert report produced by You and reserve the right to consult Our own experts at Our expense.

(d) Subject to the exclusions set forth in subparagraph (a) above, You may bring a claim for breach of the Authorship Warranty provided that: (i) You have notified Us in writing within no less than three (3) months of receiving any information which causes You to question the authorship of the piece, specifying the sale in which the property was included, the item number on the order confirmation and the reasons why the authorship of the piece is being questioned; and (ii) You return the piece to Us in the same condition as at the time of the sale and are able to transfer good and marketable title in the piece free from any third party claim arising after the date of the sale. We may waive any of the foregoing requirements in Our sole discretion.

(e) Your sole and exclusive remedy, and our sole and exclusive liability, for any breach of the Authorship Warranty will be rescission of the sale and refund of the original purchase price paid to You. **THIS REMEDY WILL CONSTITUTE THE SOLE AND EXCLUSIVE REMEDY AND RECOURSE OF YOU AGAINST BEWEARCY PARTIES AND THE SELLER AND IS IN LIEU OF ANY OTHER REMEDY AVAILABLE AS A MATTER OF LAW OR EQUITY FOR ANY CLAIM RELATED TO THE AUTHORSHIP WARRANTY.** This means that none of Bewearcy Parties or the seller will be liable for loss or damage beyond the remedy expressly provided in this Authorship Warranty, whether such loss or damage is characterized as direct, indirect, special, incidental or consequential, or for the payment of interest on the original purchase price.

(f) As a courtesy to You as a buyer, We may prepare and provide condition reports on each work of art ("**Descriptions**"). **ALL REPRESENTATIONS OR STATEMENTS MADE BY US AS TO THE AUTHORSHIP, ORIGIN, DATE, AGE, SIZE, MEDIUM, ATTRIBUTION, GENUINENESS, PROVENANCE, CONDITION OR ESTIMATED SELLING PRICE OF ANY ARTWORK, ARE STATEMENTS OF OPINION ONLY. ALL PHOTOGRAPHIC REPRESENTATIONS AND OTHER ILLUSTRATIONS PRESENTED ONLINE OR ELSEWHERE ARE SOLELY FOR GUIDANCE AND ARE NOT TO BE RELIED UPON IN TERMS OF TONE OR COLOR OR NECESSARILY TO REVEAL ANY IMPERFECTIONS IN THE ARTWORK. MANY WORKS ARE OF AN AGE OR NATURE THAT PRECLUDES THEIR BEING IN PRISTINE CONDITION AND SOME MAKE REFERENCE TO DAMAGE AND/OR RESTORATION. SUCH INFORMATION IS GIVEN FOR GUIDANCE ONLY AND THE ABSENCE OF SUCH A REFERENCE DOES**

NOT IMPLY THAT A WORK IS FREE FROM DEFECTS NOR DOES ANY REFERENCE TO PARTICULAR DEFECTS IMPLY THE ABSENCE OF OTHERS.

(g) EXCEPT FOR THE AUTHORSHIP WARRANTY, NEITHER BEWEARCY PARTIES NOR THE SELLER MAKE ANY REPRESENTATION, WARRANTY OR GUARANTEE OR ASSUME ANY LIABILITY OF ANY KIND IN RESPECT OF ANY WORK OF ART OR ANY DESCRIPTIONS, WHETHER EXPRESS OR IMPLIED, INCLUDE ANY WARRANTY OF MERCHANTABILITY, FITNESS FOR PARTICULAR PURPOSE, DESCRIPTION, SIZE QUALITY, CONDITION, ATTRIBUTION, AUTHENTICITY, RARITY, IMPORTANCE, MEDIUM, PROVENANCE, EXHIBITION HISTORY, LITERATURE, NON-INFRINGEMENT OR HISTORICAL RELEVANCE. EXCEPT AS REQUIRED BY LOCAL LAW, ANY WARRANTY OF ANY KIND WHATSOEVER IS EXCLUDED BY THIS PARAGRAPH.

1. SALES TAX

Purchases may be subject to sales, use, excise and other tax in some jurisdictions. It is Your responsibility to ascertain and pay all taxes due. If You are claiming exemption from sales tax, You must have the appropriate documentation on file with Us prior to the release of the property.

We display an "Estimated Tax" to be collected at check out when confirming an order. The amounts displayed as estimated tax may then be updated later when Your order is finalized and completed.

1. PACKING AND SHIPPING

You are responsible for all shipping costs and fees. We will, at Your expense, either provide packing, handling, insurance and shipping services or coordinate with shipping agents instructed by You in order to facilitate such services for property purchased from Us. As a courtesy to You, We will, without charge, wrap purchased items for hand carry only. Any such instruction, whether or not made at Our recommendation, is entirely at Your risk and responsibility and We will not be liable for acts or omissions of third party packers or shippers. We will require presentation of government issued identification prior to release of a piece to You or Your authorized representative.

1. GENERAL

These Fine Art Conditions of Sale are subject at all times to (and incorporate by this reference) the TOS.

HISTORICAL MODIFICATIONS

POSTED JUNE 01, 2011; UPDATED OCTOBER 27, 2013; UPDATED MARCH 29, 2018.
THESE TOS WERE MODIFIED ON OCTOBER 27, 2013 TO REFLECT CHANGES THAT INCLUDE THE FOLLOWING: (I) CLARIFICATION THAT THE TOS APPLY TO THE SERVICE AVAILABLE THROUGH THE SITE, (II) REMOVE DUPLICATIVE AND OVERLAPPING PROVISIONS, (III) CLARIFY UNCLEAR PROVISIONS AND CORRECT SCRIVENER'S ERRORS, (IV) UPDATES TO BEWEARCY CONTACT INFORMATION, (V) REVISIONS TO YOUR OBLIGATIONS WITH RESPECT TO POSTINGS, (VI) ADDITION OF A PROVISION

REGARDING ASPECTS OF THE LIMITATION OF LIABILITY AND (VII) THE JURISDICTION FOR DISPUTES. THESE TOS WERE MODIFIED ON MARCH 29, 2018 TO ADD A MANDATORY ARBITRATION PROVISION AND CLASS ACTION WAIVER. THESE TOS WERE MODIFIED ON OCTOBER 9, 2019 TO REFLECT THE SMS PROGRAM. THESE TOS WERE MODIFIED NOVEMBER 10, 2020 TO PROVIDE CLARIFICATION ABOUT THE APPLICATION OF TAX ON ORDERS.