

# Terms and Conditions

## **Agreement between User and www.aprilsmithfineart.com**

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www.aprilsmithfineart.com is an E-Commerce Site.

Artist selling original works of art and services as a live event painter.

## **Privacy**

Your use of www.aprilsmithfineart.com is subject to April Smith Fine Art's Privacy Policy. Please review our Privacy Policy, which also governs the Site and informs users of our data collection practices.

## **Electronic Communications**

Visiting www.aprilsmithfineart.com or sending emails to April Smith Fine Art constitutes electronic communications. You consent to receive electronic communications and you agree that all agreements, notices, disclosures and other communications that we provide to you electronically, via email and on the Site, satisfy any legal requirement that such communications be in writing.

## **Children Under Thirteen**

April Smith Fine Art does not knowingly collect, either online or offline, personal information from persons under the age of thirteen. If you are under 18, you may use www.aprilsmithfineart.com only with permission of a parent or guardian.

## **Links to Third Party Sites/Third Party Services**

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## **No Unlawful or Prohibited Use/Intellectual Property**

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All content included as part of the Service, such as text, graphics, logos, images, as well as the compilation thereof, and any software used on the Site, is the property of April Smith Fine Art or its suppliers and protected by copyright and other laws that protect intellectual property and proprietary rights. You agree to observe and abide by all copyright and other proprietary notices, legends or other restrictions contained in any such content and will not make any changes thereto.

You will not modify, publish, transmit, reverse engineer, participate in the transfer or sale, create derivative works, or in any way exploit any of the content, in whole or in part, found on the Site. April Smith Fine Art content is not for resale. Your use of the Site does not entitle you to make any unauthorized use of any protected content, and in particular you will not delete or alter any proprietary rights or attribution notices in any content. You will use protected content solely for your personal use, and will make no other use of the content without the express written permission of April Smith Fine Art and the copyright owner. You agree that you do not acquire any ownership rights in any protected content. We do not grant you any licenses, express or implied, to the intellectual property of April Smith Fine Art or our licensors except as expressly authorized by these Terms.

## **International Users**

The Service is controlled, operated and administered by April Smith Fine Art from our offices within the USA. If you access the Service from a location outside the USA, you are responsible for compliance with all local laws. You agree that you will not use the April Smith Fine Art Content accessed through [www.aprilsmithfineart.com](http://www.aprilsmithfineart.com) in any country or in any manner prohibited by any applicable laws, restrictions or regulations.

## **Indemnification**

You agree to indemnify, defend and hold harmless April Smith Fine Art, its officers, directors, employees, agents and third parties, for any losses, costs, liabilities and expenses (including reasonable attorney's fees) relating to or arising out of your use of or inability to use the Site or services, any user postings made by you, your violation of any terms of this Agreement or your violation of any rights of a third party, or your violation of any applicable laws, rules or regulations. April Smith Fine Art reserves the right, at its own cost, to assume the exclusive defense and control of any matter otherwise subject to indemnification by you, in which event you will fully cooperate with April Smith Fine Art in asserting any available defenses.

## **Arbitration**

In the event the parties are not able to resolve any dispute between them arising out of or concerning these Terms and Conditions, or any provisions hereof, whether in contract, tort, or otherwise at law or in equity for damages or any other relief, then such dispute shall be resolved only by final and binding arbitration pursuant to the Federal Arbitration Act, conducted by a single neutral arbitrator and administered by the American Arbitration Association, or a similar arbitration service selected by the parties, in a location mutually agreed upon by the parties. The arbitrator's award shall be final, and judgment may be entered upon it in any court having jurisdiction. In the event that any legal or equitable action, proceeding or arbitration arises out of or concerns these Terms and Conditions, the prevailing party shall be entitled to recover its costs and reasonable attorney's fees. The parties agree to arbitrate all disputes and claims in regards to these Terms and Conditions or any disputes arising as a result of these Terms and Conditions, whether directly or indirectly, including Tort claims that are a result of these Terms and Conditions. The parties agree that the Federal Arbitration Act governs the interpretation and enforcement of this provision. The entire dispute, including the scope and enforceability of this arbitration provision shall be determined by the Arbitrator. This arbitration provision shall survive the termination of these Terms and Conditions.

### **Liability Disclaimer**

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### **Termination/Access Restriction**

April Smith Fine Art reserves the right, in its sole discretion, to terminate your access to the Site and the related services or any portion thereof at any time, without notice. To the maximum extent permitted by law, this agreement is governed by the laws of the State of California and you hereby consent to the exclusive jurisdiction and venue of courts in California in all disputes arising out of or relating to the use of the Site. Use of the Site is unauthorized in any jurisdiction that does not give effect to all provisions of these Terms, including, without limitation, this section.

You agree that no joint venture, partnership, employment, or agency relationship exists between you and April Smith Fine Art as a result of this agreement or use of the Site. April Smith Fine Art's performance of this agreement is subject to existing laws and legal process, and nothing contained in this agreement is in derogation of April Smith Fine Art's right to comply with governmental, court and law enforcement requests or requirements relating to your use of the Site or information provided to or gathered by April Smith Fine Art with respect to such use. If any part of this agreement is determined to be invalid or unenforceable pursuant to applicable law including, but not limited to, the warranty disclaimers and liability limitations set forth above, then the invalid or unenforceable provision will be deemed superseded by a valid, enforceable provision that most closely matches the intent of the original provision and the remainder of the agreement shall continue in effect.

Unless otherwise specified herein, this agreement constitutes the entire agreement between the user and April Smith Fine Art with respect to the Site and it supersedes all prior or contemporaneous communications and proposals, whether electronic, oral or written, between the user and April Smith Fine Art with respect to the Site. A printed version of this agreement and of any notice given in electronic form shall be admissible in judicial or administrative proceedings based upon or relating to this agreement to the same extent and subject to the same conditions as other business documents and records originally generated and maintained in printed form. It is the express wish to the parties that this agreement and all related documents be written in English.

### **Changes to Terms**

April Smith Fine Art reserves the right, in its sole discretion, to change the Terms under which [www.aprilsmithfineart.com](http://www.aprilsmithfineart.com) is offered. The most current version of the Terms will supersede all previous versions. April Smith Fine Art encourages you to periodically review the Terms to stay informed of our updates.

**Contact Us**

April Smith Fine Art welcomes your questions or comments regarding the Terms:

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Effective as of April 04, 2024