

THE MODIGLIANI PROJECT

THE MODIGLIANI PROJECT, INC. CATALOGUE RAISONNÉ SUBMISSION AGREEMENT FOR ARTWORKS

SUBMISSION AGREEMENT dated as _____, 20 ____ (the “Agreement”),
by and between THE MODIGLIANI PROJECT, INC., a Delaware corporation having an address
at 4 West 43rd Street, Suite 304, New York, NY 10036 (the “Project”), on the one hand, and
_____, having an
address at _____,

as the owner(s) (the “Owner” or “you”) of the following work (the “Work”), on the other hand:

Title/Subject of Work (list all known titles): _____

Medium: _____

Dimensions: _____

Support (canvas; panel; cardboard; etc.): _____

Dated: _____

Signature/inscriptions/labels present on the Work: _____

Known related works and mediums: _____

Earliest verifiable/published reference to the Work: _____

Date Acquired: _____

Name and Address of Previous Owner, if known:

Provenance before Previous Owner (attach additional sheet if necessary): _____

The Owner is submitting the Work to The Modigliani Project (the "Project") and requests that the Project consider the Work for inclusion in the Project' s Catalogue Raisonné of paintings of Amedeo Modigliani. When referring to the Project throughout this Agreement, the references all include editors, writers, professors, researchers, advisors, contractors, conservators, curators, scientific committee members, employees of the Project, and the directors, officers and employees of the Project, or, collectively, their agents or representatives, and any other individuals who are involved with the consideration of the Work. The Owner is submitting the Work for consideration together with a non-refundable fee (please confirm current amount with The Modigliani Project).

The Project has agreed to consider the Work for inclusion in, or exclusion from, the Catalogue Raisonné, or for further study in connection therewith, pursuant to the terms and condition forth herein.

The Project and the Owner agree as follows:

1. The Project agrees to consider the Work for inclusion in the Catalogue Raisonné. After such consideration and research as the Project, in its sole discretion, shall deem appropriate the Project shall determine whether the Work will be included in the Catalogue Raisonné. The Project has no obligation to inform the Owner of the reasons for its decision. The Project has no obligation to inform the Owner of its decision in writing, or otherwise, other than by publishing the Work in the Catalogue Raisonné or excluding the Work from the Catalogue Raisonné if and when it is published. The Owner understands and agrees that Owner has no right to force the Project to publish a Catalogue Raisonné.

2. The Owner represents and warrants to the Project that the Owner is the actual owner the Work and that the Owner has the sole title to the Work, the right to possess the Work, and the right to submit the Work to the Project for consideration under this Agreement. The Owner further represents that no one other than the Owner has a pecuniary interest in the Work. Submissions by representatives, dealers, agents, or other persons or entities who are not the sole owner will not be considered.

3. As part of the submission, the Owner will provide the Project (at the Owner's expense) with:

- (a) Professional, digital, high-resolution images of the front and back of the suitable for publication (which shall remain the property of the Project);
- (b) All information about the Work known to the Owner, including but not limited to its condition, its full provenance, publication and exhibition history, an any opinion by any expert or scholar as to the authenticity, attribution, and/or appraised value of the Work; and
- (c) The results of scientific examination or testing of the Work, if requested by the Project.

The Owner represents and warrants to the Project that all information that has been provided and will be provided to the Project is and will be accurate and complete to the best of the Owner' s knowledge and belief.

4. The Owner expressly understands and agrees that neither the Project, nor any individual associated with the Project, including but not limited to editors, writers, professors,

researchers, advisors, contractors, conservators, curators, scientific committee members, employees of the Project, and the directors, officers and employees of the Project, or, collectively, their agent's representatives, warrants or guarantees the correctness of the Project's decision, including but limited to any oral or written statements in connection therewith, including whether the Work is authentic or not or whether the Work is correctly attributed to Modigliani or not. Owner acknowledges that any decisions, determinations or opinions by the Project are not intended as statements of fact but are statements of opinion only based on the information provided by Owner and such other information believed to be known by the Project when such opinions are expressed. Owner understands and acknowledges that reasonable disagreements as to the authenticity or attribution of the Work may exist notwithstanding any determinations of the Project.

Accordingly, the Owner hereby covenants not to sue, and further releases and discharges, the Project and its directors, advisors, committee members, employees and consultants from and against any and all claims, liabilities, losses and damages, and all costs and expenses (including but not limited to reasonable attorneys' fees) in any way relating to, arising out of, based upon, or resulting from this Agreement, the submission of the Work to the Project, the Project's evaluation of the Work, and the decision (or lack thereof) rendered by the Project concerning the Work. If Owner threatens or asserts any claims against the Project despite this Agreement, then Owner shall be responsible for paying all of the Project's legal fees and costs incurred in responding to such claims by the Owner. The Owner must pay those legal fees and costs within thirty days of receiving an invoice for such fees and costs. The Project shall have complete discretion to hire counsel and any expert witnesses to defend against such claims by the Owner.

5. The Owner agrees to defend, indemnify and hold harmless the Project, its directors, advisors, committee members, employees and consultants, and all institutions, corporations, and individuals providing the funding for the Project, from and against any and all claims, liabilities, losses and damages, and all costs and expenses (including but not limited to reasonable attorneys' fees) in any way relating to, arising out of, based upon, or resulting from this Agreement, the submission of the Work to the Project, the Project's evaluation of the Work and the decision (or lack thereof) rendered by the Project concerning the Work. The Owner must pay those legal fees and costs within thirty days of receiving an invoice for such fees and costs. The Project shall have complete discretion to hire counsel and any expert witnesses to defend against such claims.

6. If information comes to the Project's attention that causes the Project to change its initial decision whether to include or exclude the Work from the Catalogue Raisonné, the Project reserves the right, in its sole discretion, to change its decision and to subsequently include or remove the Work from the Catalogue Raisonné.

7. The Project shall have the right in its sole discretion to make and retain photographs or other copies of the Work and may also reproduce and disseminate copies thereof in the Catalogue Raisonné or in other scholarly publications (including but not limited to other catalogues), or authorize others to do so, without the Owner being entitled to any associated royalties or consent rights.

8. The Project may request that you deliver the Work to a location specified by the Project for physical examination, or that a member of the Project view the Work at your premise

or another premises where the Work is located. The Work should not be shipped to any location connection with this Agreement until the Owner receives shipping instructions from the Project. The examination may include, but shall not necessarily be limited to, opening framed work to examine media and support. If the Project decides that a physical examination of the Work at a location other than at Owner' s premises is required or appropriate, then Owner shall be solely responsible for arranging and directly paying for all necessary transportation of the Work to the location specified by the Project. The Project shall provide a professional art handler and security at its sole expense when it is examining the Work.

The Project may also request, in its sole discretion, that you engage a third-party service provider, to be selected in the Project's sole discretion, for the purpose of conducting conservator examination and/or scientific testing of the Work that the Project may consider to be helpful when evaluating the Work. If the Project decides that conservator examination and/or scientific testing of the Work is warranted, then Owner shall be solely responsible for retaining and directly paying the third-party provider(s) selected by the Project.

Owner will insure the Work while it is in transit to or from, and in the possession or control of, any conservator, scientist, lab, or the Project in an amount deemed by Owner to be sufficient to cover any potential loss or damage. The Project shall not have any liability to Owner based upon any loss of or damage to the Work.

Owner shall be responsible for the payment of all expenses associated with the testing or physical examination of the Work, including but not limited to packing, shipping, and insurance. Should the Owner decline in advance to pay for the testing or physical examination, the Project may decide, in its sole discretion, not to consider the Work for inclusion in the Catalogue Raisonné.

9. The Project shall have the right, in its sole discretion, to undertake such research, factual or otherwise, as it deems appropriate in its sole discretion, including but not limited to investigating the provenance of the Work by contacting prior owners, exhibitors, art dealers, and anyone else who may have knowledge of the Work or dealt with the Work in any capacity. Nevertheless, the Project is under no obligation to conduct any such research and may rely exclusively on the accuracy of the information provided to it by the Owner.

10. The Owner understands and acknowledges that forming an opinion as to the authenticity or attribution of a work purported to be by Modigliani is often very difficult and will in many cases depend, to a large extent, upon subjective criteria that are not capable of proof or certainty and that the conclusion, if any, reached by the Project respecting the Work is an opinion only, is in the absolute discretion of the Project, and, to the extent that the Project includes or excludes the Work from the Catalogue Raisonné, the opinion and decision to do so shall not be deemed or held out by the Owner or any other person to be a warranty of any kind (including but not limited to the authenticity, or lack thereof, of the Work).

Circumstances may arise that cause the Project to reconsider, doubt, or change its decision (if any) to include the Work in, or exclude the Work from, the Catalogue Raisonné. Therefore, the Owner and all of the Owner's successors and assigns (*e.g.*, subsequent owners, purchasers or other transferees of the Work) understand and agree that no legal or equitable action may be taken against the Project in connection with any decision or opinion of the Project, and that no one may

reasonably rely upon any decision or opinion that the Project renders in connection with the Work, including but not limited to the Work's authenticity or inclusion in, or exclusion from, the Catalogue Raisonné. In such an event, the Project may (but it shall be under no duty to) notify the Owner that the decision has been changed. The Owner represents and warrants to the Project that the Owner shall not misrepresent to anyone the Project's revised decision as given or made known to the Owner.

11. This Agreement shall be binding upon the parties hereto as well as their respective successors, assigns, transferees, and heirs, including, but not limited to, any subsequent pure or owner of the Work, and each of the parties hereto agrees:

- (a) This Agreement, and any and all disputes arising under or relating in any whatsoever to this Agreement, shall be governed by and construed in accordance with laws of the State of New York, without regard or reference to any choice of law or conflict of law rules of any jurisdiction. The parties expressly understand and agree that the Project is not a "merchant" within the meaning of the New York Uniform Commercial Code or any other or similar Uniform Commercial Code. The parties further expressly understand and agree that the Project has no direct or indirect pecuniary interest in the Work or in the rendering by the Project of any opinion about the Work, and that the Project's interest in rendering any opinion (or not) about the Work is scholarly and not commercial.
- (b) Any and all disputes arising under or relating in any way whatsoever to this Agreement will be resolved exclusively through a binding and confidential arbitration proceeding to be conducted under the auspices and the commercial arbitration rules of JAMS in New York, New York, before a single arbitrator who practices or has practiced in the field of art law or else is a retired federal judge and who shall specifically have the power to dismiss claims as a matter of law or as a matter of conclusively demonstrate fact at the "Demand" or pleadings stage. Both the agreement of the parties to arbitrate all disputes and the results and awards rendered through the arbitration will be final and binding on the parties hereto, and may be specifically enforced by legal proceedings. Arbitration will be the sole means of resolving such disputes, and the parties waive their rights to resolve disputes by court proceedings or any other means. The parties also waive any right to assert any claims against the other party as a representative or member in any class or representative action, except where such waiver is prohibited by law. As stated above, if Owner asserts any claims against the Project despite its Agreement not to do so, then Owner shall be responsible for paying all of the Project's legal fees and costs incurred in responding to such claims, including all fees and costs charged by JAMS and the arbitrator.

- (c) This Agreement contains the entire agreement between the parties hereto, it supersedes any and all other, prior, or contemporaneous agreements and understandings between the parties, whether oral or written, and it may not be amended, supplemented or modified in any way except through a written amendment executed by all parties hereto.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date written above:

THE MODIGLIANI PROJECT, INC., a Delaware corporation:

By: _____ E-mail: _____

Print Name: _____

Title: _____

Date: _____

THE OWNER:

By: _____ E-mail: _____

Print Name: _____

Date: _____

In the event the Project determines to include the Work in the Catalogue Raisonné, the Owner wishes the Work to be listed as follows (check one):

_____ The Project may use my name as the owner of the Work written as follows: _____

_____ The Project should list the owner of the Work as " Private Collection."