

# Strauss & Co

Fine Art Auctioneers | Consultants

## Privacy Policy of Strauss & Co for Auctions

### 1. INTRODUCTION

- 1.1. This is the privacy policy of Strauss & Co Proprietary Limited (Registration No. 1972/000019/07) (“**Strauss & Co**”) and applies to Strauss & Co’s collection and processing of personal information.
- 1.2. The definitions and rules of interpretation under the Strauss & Co general conditions of business, accessible at [ ] (“**COB**”), will apply to this privacy policy unless otherwise indicated.
- 1.3. For purposes of the Protection of Personal Information Act, 2013 (“**POPIA**”), Strauss & Co is the “**responsible party**” for the processing of any data subject’s (as such term is defined in POPIA and which includes all bidders, users and sellers as defined in the COB) personal information and, where relevant, in terms of the General Data Protection Regulation (GDPR) (EU) 2016/679 (“**GDPR**”) Strauss & Co is the “**data controller**” for the processing of data subjects’ personal information. In this privacy policy, “**personal information**” and “**processing**” is as defined under POPIA (and, to the extent relevant, references to personal information will also bear the meaning assigned to “**personal data**” under the GDPR).
- 1.4. Strauss & Co is committed to protecting data subject’ privacy and personal information in accordance with applicable data protection laws, including POPIA and, where relevant, the GDPR.
- 1.5. By making use of any Website made available by Strauss & Co (“**Website**”) and/or otherwise providing Strauss & Co with personal information in relation to Strauss & Co’s business, including but not limited to placing a bid and/or buying a lot, the data subject explicitly agrees and consents to the use of its personal information in terms of the provisions of this privacy policy and any further provisions relating thereto as outlined in the COB. If the user does not agree with the above, the user must not access or use the Website and/or provide its personal information to Strauss & Co, provided that the data subject will then not be entitled to participate in or benefit from any services provided by Strauss & Co.
- 1.6. Any personal information is collected and processed for Strauss & Co’s legitimate business purposes, including but not limited to as detailed in 2 below or in compliance with statutory requirements only, and no personal information will be supplied or distributed by Strauss & Co to any third party without the data subject’s consent unless the supply or distribution of such personal information is necessary in relation to the initial purpose of processing and/or reasonably expected or necessary by Strauss & Co as part of its business operations and/or for the performance by Strauss & Co of its obligations under and in terms of the COB, including but not limited to (i) rendering of services to our clients; (ii) employee administration; (iii) transacting with our suppliers and third party service providers; (iv) maintaining records; (v) recruitment; (vi) general administration; (vii) financial requirements; and (viii) compliance with legal and regulatory requirements. Where Strauss & Co transfers personal information to any third parties, it will ensure that the third party agrees to comply with the protection of personal information in accordance with applicable laws.
- 1.7. Strauss & Co may also disclose the data subject’s personal information when it believes such disclosure is necessary in order to comply with the law, enforce

its COB and/or to protect its or third parties’ rights, property or safety.

- 1.8. Notwithstanding the provisions of this clause 1, anonymised, non-personally identifiable information will not constitute personal information and may be provided to other parties for marketing, advertising, statistical and/or record-keeping purposes without restriction.
- 1.9. Strauss & Co understands the importance of keeping data subjects’ personal information secure and has implemented appropriate technical and physical steps to safeguard it.

### 2. CATEGORIES OF PERSONAL INFORMATION AND PURPOSES OF USE

- 2.1. The general types of personal information that Strauss & Co may collect from data subjects (whether directly or through third parties) and process includes but is not limited to:
  - 2.1.1. personal information provided by the data subject when filling in the forms on the Website and personal information given in hard copy form by any other means (“submitted user information”) providing the data subject’s name, date of birth, address, credit information (with the data subject expressly agreeing and consenting to Strauss & Co using his/her/its personal information for purposes of conducting creditworthiness verification, either itself or through a third party appointed for this purpose) and any other personal information relevant to the services provided by Strauss & Co. The processing of such personal information is necessary for pursuing the legitimate interests of Strauss & Co, the performance of a contract between Strauss & Co and/or the data subject and to comply with South African legal obligations;
  - 2.1.2. as part of the submitted user information, the data subject may also provide details of its interests and marketing preferences, which are relevant to the services provided by Strauss & Co. The processing of such personal information is undertaken in the pursuit of the legitimate interests of Strauss & Co and the data subject will be required to consent thereto. Any marketing communications will be undertaken in accordance with applicable laws;
  - 2.1.3. correspondence or other contacts that a data subject may have with Strauss & Co, which is in legitimate interests of Strauss & Co;
  - 2.1.4. details of transactions carried out, whether through the Website or otherwise (or any third-party platform approved by the data subject) and any communications by telephone, in person, or by any other means relating to those transactions, which information is necessary for Strauss & Co to deliver its services in terms of the COB and/or the performance of a contract between Strauss & Co and the data subject;
  - 2.1.5. information submitted by a data subject when a data subject subscribes to Strauss & Co’s catalogues, newsletters or other communications. In this regard, the processing of such personal information is in pursuit of the legitimate interests of Strauss & Co; and
  - 2.1.6. details of a data subject’s visits to the Website including, but not limited to traffic data, web logs or other communication data and resources accessed by the user, which is in pursuit of the legitimate interests of Strauss & Co.

- 2.2. Specific personal information that Strauss & Co may collect and process from a data subject’s use of the Website, which is in pursuit of the legitimate interests of Strauss & Co, includes but is not limited to the following:

- 2.2.1. **Cookies.** A cookie is a simple text file that is stored on a user’s computer or mobile device by a Website’s server and only that server will be able to retrieve or read the contents of that cookie. It allows a Website to remember things like the preferences of a data subject. The use of the Website by a data subject will result in Strauss & Co placing cookies on the data subject’s computer, as set out further in clause 11 below.
- 2.2.2. **IP addresses.** When visiting the Website, Strauss & Co may collect certain information pertaining to the data subject’s computer, including IP address, operating system and browser type.
- 2.3. Personal information is collected for the following reasons, purposes and legal grounds:
  - 2.3.1. **To improve client service:** Data subject personal information helps Strauss & Co to respond to our clients’ service requests more effectively and to support the needs of our clients. The legal basis for processing such personal information is that it is in pursuit of the legitimate interests of Strauss & Co;
  - 2.3.2. **To process transactions:** Personal information collected by Strauss & Co will only be transferred or disclosed to third parties in accordance with this privacy policy. Without limiting the above, by submitting its personal information to Strauss & Co in relation to a sale transaction, the data subject expressly consents to Strauss & Co disclosing its personal information as is necessary for the express purpose of making available the purchased product or service to the user for collection by the buyer and processing the transaction, which is necessary for the performance of a contract;
  - 2.3.3. **To send periodic emails or text messages:** Any email address or mobile telephone number provided by a data subject may be used by Strauss & Co to send such data subject personal information and updates pertaining to any bid placed by the data subject or any lot sold to the data subject, which is necessary for the performance of a contract;
  - 2.3.4. **To send marketing updates:** Where the data subject has consented to receiving periodic marketing updates, company news and/or related product or service information, any personal information collected may also be used for these purposes, which is in pursuit of the legitimate interests of Strauss & Co provided that the data subject will be afforded an opportunity to opt out of any such marketing communications at any time by way of the link provided for such purpose or contacting Strauss & Co at the details provided below; and
  - 2.3.5. **Automatically stored information:** IP addresses, cookies, usernames and passwords and other related security content, products viewed, purchases made and purchase history, pages visited, links opened and similar information may be stored automatically by the Website or Strauss & Co’s information technology systems. The storage of such information is for the legitimate interests of Strauss & Co or in accordance with record retention requirements under applicable laws.

### 3. SECURITY OF INFORMATION

- 3.1. Strauss & Co is committed to protecting the personal information of data subjects and securing its information technology systems. Strauss & Co considers the confidentiality of personal information to be important and industry-standard security measures, including appropriate, reasonable technical and organisational measures are implemented and will be maintained so as to prevent personal information from lost, damaged, or accessed by unauthorised persons and to prevent unauthorised disclosure.
- 3.2. Strauss & Co continually monitors and enhances its security measures as new technology is made available and in response to newly discovered threats.
- 3.3. A variety of security measures are used by Strauss & Co in an effort to maintain the safety of the personal information when a bid is placed or a lot is purchased or personal information is entered, stored, recalled or accessed. These measures include electronic firewalls and various other protection measures that involve virus scanning, installation of security patches, vulnerability testing, backup and recovery planning, employee training, security audits and the like.
- 3.4. All supplied sensitive personal information including, but not limited to, personal particulars, credit card or EFT details are transmitted via Secure Socket Layer (“**SSL**”) technology and then encrypted into the database of Strauss & Co’s payment provider. Such information will only be accessible by the authorised personnel with special access rights to such systems, and such individuals are required to keep the information confidential.
- 3.5. After a transaction has been concluded on the Website, the data subject’s purchase information, such as credit card or electronic file transfer (“**EFT**”) details will not be stored on Strauss & Co’s servers.
- 3.6. Strauss & Co does not send e-mails to data subjects asking them to provide it with their account or other information or e-mails inviting users to link to its Website. Strauss & Co shall not be liable for any loss suffered by any person relating to such fraudulent e-mails sent by third parties or other related fraudulent practices by third parties such as the unauthorised use of Strauss & Co’s brand names, marks goodwill and reputation in an attempt to mislead people into thinking that such emails are sent by or otherwise associated with Strauss & Co. Strauss & Co may, however, from time to time send e-mails requesting a user to provide credit card details in respect of subscription payments or purchases made, which e-mail shall specifically indicate that it is in relation to subscription payments or a specified purchase. Strauss & Co strongly recommends that data subjects verify the authenticity of any such requests.

### 4. RESPONSIBILITIES OF THE DATA SUBJECT

- 4.1. Each data subject remains responsible for maintaining the confidentiality of their username, password, credit card details and any other security information provided to or chosen by the data subject.
- 4.2. Strauss & Co encourages data subjects to: (i) use strong account passwords for the Website; (ii) not share account login details with any person; and (iii) change their passwords on a regular basis.

4.3. The data subjects remain responsible for restricting access to their computer or other electronic device but shall be liable for any purchases made or bids placed using their details, regardless of whether a third party had gained access to such user's computer or other electronic device or username, password and other security information without permission.

4.4. This privacy policy is subject to change from time to time and it is the responsibility of the data subject to ensure that he or she is up-to-date with these provisions when making use of the Website or otherwise engaging with Strauss & Co.

4.5. Whilst Strauss & Co will use reasonable efforts to ensure that the personal information is kept up to date, data subjects are responsible for updating their details and ensuring that all personal information provided to Strauss & Co is up to date.

4.6. Where changes to this privacy policy will have a fundamental impact on the nature of the processing of the personal information of a data subject or otherwise have a substantial impact on the data subject, Strauss & Co will provide a reasonable notice on the Website to enable a data subject to exercise its' privacy rights.

## 5. LINKS TO THIRD PARTY WEBSITES

5.1. Occasionally Strauss & Co may include links to third party Websites.

5.2. The personal information that data subjects provide to Strauss & Co will not be transmitted to these third-party Websites. These third-party sites may however collect personal information of users in accordance with their separate and independent privacy policies and Strauss & Co therefore has no responsibility or liability for the content of these linked sites and/or any activities conducted by the data subject on such sites. The data subject is to ensure that it has read and understood any terms of use (including any privacy policies) which apply to such third-party sites.

5.3. Strauss & Co will use commercially reasonable efforts to protect the integrity of its site and welcomes any feedback about these third-party sites, which feedback can be e-mailed to [info@strausart.co.za](mailto:info@strausart.co.za).

## 6. PERSONAL INFORMATION TRANSFERS OUTSIDE OF SOUTH AFRICA

6.1. Where it is necessary for Strauss & Co to transfer personal information outside of South Africa, Strauss & Co shall ensure that such transfer will only be to a recipient country that offers an "adequate level" of protection (i.e. that its data privacy laws are substantially similar to POPIA).

6.2. Strauss & Co shall only transfer personal information to entities from countries which have lower levels of data protection than the exporting country ("countries without equivalent protection"), or allow personal information to be accessed by entities in countries without equivalent protection, if the express consent of the data subject has been obtained and Strauss & Co has received assurances that the personal information will be adequately protected by the importing entity and that contractual mechanisms are in place to protect such personal information.

6.3. The personal information that is obtained from data subjects when registering for online auctions will be held in South Africa but may be held on servers located in the United States of America and the United Kingdom. Strauss & Co shall procure that any third party whose servers host such personal information is under a legal obligation to comply with the requirements of POPIA and, where relevant, the GDPR and the EU-US Privacy Shield (which replaced the Safe Harbour provisions), to the extent applicable, when conducting any processing activities or transfer of personal information.

## 7. RETENTION OF PERSONAL INFORMATION

7.1. Strauss & Co may retain the personal information for as long as is necessary to render its services, maintain business records, comply with the South Africa's Financial Intelligence Centre Act, 2001 ("FICA"), tax and legal (including legislative requirements). The retention of personal information also serves to protect and defend Strauss & Co against potential legal claims.

7.2. For purposes of Strauss & Co's research and record-keeping of the ownership of art objects, to assist with checks on the validity of works, provenance and title, Strauss & Co will keep the personal information for as long as the record is relevant to the legitimate interests of Strauss & Co.

## 8. ADDITIONAL REQUIREMENTS UNDER THE GDPR

The GDPR is a regulation in European Union law, which deals with data protection and privacy for all individuals within the European Economic Area ("EEA"). It also addresses the export of personal data outside of the EEA. In order to meet the privacy requirements of the GDPR, Strauss & Co provides the following additional information to data subjects (referred to as "users" below).

### 8.1. The entity that is responsible for the personal information of a user

As provided in clause 2.1 of the privacy policy, if a user transacts in an auction with Strauss & Co or provides personal information as part of the registration process, then Strauss & Co will be the data controller of that personal information.

### 8.2. The legal basis on which Strauss & Co relies to process personal information

The lawful bases Strauss & Co relies on when processing the different types of personal information of users is detailed in clause 3 of this privacy policy. For compliance with the provisions of the GDPR, Strauss & Co provides additional clarifications regarding the lawful basis for its processing activities:

8.2.1. **Consent:** In certain instances, Strauss & Co processes personal information with the explicit consent of users.

8.2.2. **Performance of a contract:** Strauss & Co may process users' personal information when it needs to do this to fulfil a contract with a user, including, for example but not limited to, for billing or shipping purposes.

8.2.3. **Legal obligation:** There are legal requirements that Strauss & Co has to comply with, for example, in the case of FICA, as provided in clause 8.1 of the privacy policy. If there is a legal requirement for a user to provide personal information for any such purpose, Strauss & Co will make this clear at the time and will also explain to users what the consequences will be if the user does not provide the requisite personal information. For example, if the user cannot submit the necessary information to register for an auction, then Strauss & Co will not be able to process a bid at such auction.

8.2.4. **Legitimate interests:** Strauss & Co processes personal information when it is in its legitimate interests to do this. Examples of such legitimate interests include: (i) the security of its auctions; (ii) obtaining insights on the preferences of users; (iii) maintaining accurate records; and (iv) ensuring that its Website operates efficiently. Adequate safeguards are put in place to ensure that users' privacy is protected and that Strauss & Co's legitimate interests are not overridden by a users' interests or fundamental rights and freedoms.

## 9. DATA SUBJECT'S RIGHTS

9.1. You are granted various rights under POPIA in respect of your personal information, including the right to access, update, correct or delete your personal information and, in certain circumstances, to object to the processing of your personal information. Upon your request in accordance with applicable law, Strauss & Co will grant you reasonable access to your personal information and will permit you to correct, amend or delete personal information that is incomplete or inaccurate or object to any processing of your personal information. Please refer to our PAIA manual accessible at [ ] for guidance on how to submit a request and also for details as to when a request for access may be refused. Strauss & Co will take reasonable steps to ensure that all personal information is kept as accurate, complete and up-to-date as reasonably possible but may not always expressly request you to verify and update your personal information, unless this process is specifically necessary. Strauss & Co expects that you will notify us from time to time in writing of any updates required in respect of your personal information. We will take all reasonable steps to confirm your identity before providing details of your personal information.

In accordance with our PAIA manual, should you so request, we will provide you with the record or a description of the personal information which we have about you, including information about the identity of all third parties who have, or have had, access to the personal information: (i) within a reasonable time; (ii) at a prescribed fee, if any; (iii) in a reasonable manner and format; and (iv) in a form that is generally understandable.

You may contact us at the contact details set out below in order to exercise any of your rights under POPIA. You acknowledge and understand that where you have objected to any processing, this may impact our ability to provide services or products to you.

9.2. Users residing in the EEA have the legal right to make a "subject access request" to Strauss & Co to obtain access to their personal information and the reasons for processing such personal information.

9.3. For any further copies of personal information being requested by the user, Strauss & Co may charge a reasonable fee based on administrative costs.

9.4. You may, in addition to subject access requests, ask Strauss & Co that their personal information kept by Strauss & Co is: (i) rectified if the information is inaccurate or out of date; (ii) erased; or (iii) restricted in terms of its usage.

9.5. If you have provided Strauss & Co with personal information and the grounds for processing such information are either contractual in nature or based on consent, you have the right to be provided with the personal information in a structured, commonly used and machine-readable format for transmitting it to another data controller. The same right would be available where the processing of Strauss & Co is carried out by automated means.

9.6. You have a right to object to instances of processing in the following cases, namely:

9.6.1. **Direct marketing:** A user has, in accordance with the GDPR, the right to object to direct marketing at any time.

9.6.2. **Legitimate interests:** Where Strauss & Co processes personal information because of legitimate interests, a user has a right to object to this.

9.7. If Strauss & Co has asked for consent to process personal information, a user may at any time withdraw such consent. This will not affect the lawfulness of Strauss & Co's processing of the personal information prior to a user's withdrawal.

9.8. These rights of users may be limited in some situations, for example, where Strauss & Co can demonstrate that there is a legal requirement to process the user's personal information.

9.9. If a user would like to discuss or exercise any of these rights, they are entitled to contact Strauss & Co. Users are also encouraged to contact Strauss & Co to update or correct personal information if it changes or if it is inaccurate.

9.10. If a query or complaint remains unresolved with Strauss & Co, a user may file a complaint with the relevant data protection authority.

## 10. AUTOMATIC DECISION-MAKING

10.1. The manner in which Strauss & Co analyses personal information for advertising and risk assessments may entail profiling. In this regard, Strauss & Co may process personal information by using software that is capable of assessing a user's personal aspects and predict risks.

10.2. Strauss & Co may use the personal information it collects, for example, purchase and bidding information, to deduce the interests of a user. Strauss & Co may employ such information for automated decisions about the content and suggestions presented to users on its Website.

10.3. Strauss & Co may use automated tools to flag suspicious activities on its Website. This may be the case where there are multiple logins from different locations within a short span of time. These automated activities will not, in themselves, have legal or similar effects for a user.

## 11. COOKIES

11.1. When a user visits the Website, Strauss & Co will place cookies on the computer or other electronic device of the user. The cookies that are utilised by Strauss & Co can be classified into the following categories:

11.1.1. **Functionality:** These cookies allow the Website to remember information that was provided by a user when previously accessing the Website. These cookies provide more personal features to a user's experience.

11.1.2. **Performance:** These cookies collect information about how visitors use the Website. Information identifying a visitor is not collected by these cookies. The only information that is obtained by Strauss & Co is aggregated and anonymous. The reason for collecting such information is to improve the manner in which the Website operates.

11.1.3. **Essential:** These cookies are integral to enable a user to navigate the Website. Certain features on the Website will not work properly if a user does not agree to the deployment of the cookies. Strauss & Co may in such instance be unable to provide services to a user unless the user accepts the use of such cookies.

11.2. Strauss & Co may partner with third parties to deliver more relevant advertisements to users and to obtain web statistics. The third parties may use cookies and other tracking mechanisms to monitor a user's visit to the Website and other webpages. By monitoring such activities, the third party assists advertisers to provide users with content that is more relevant.

11.3. The cookies do not store personally identifiable information of users and Strauss & Co only uses trusted advertising partners who have their own separate privacy policies in place.

## 12. HOW TO CONTACT US

12.1. If you have questions about this Privacy Policy or believe we have not adhered to it, or need further information about our privacy practices or wish to give or withdraw consent, exercise preferences or access or correct your personal information, please contact us as follows:  
Information Officer: Susie Goodman Telephone: +27-11-728-8246  
email: [info@strausart.co.za](mailto:info@strausart.co.za)

## 13. INFORMATION REGULATOR

13.1. You have the right to complain to the Information Regulator, whose contact details are:  
Web: Information Regulator Tel: 012 406 4818  
Fax: 086 500 3351  
Email: [inforeg@justice.gov.za](mailto:inforeg@justice.gov.za)