

## AGREEMENT OF ORIGINAL TRANSFER OF ARTWORK

This agreement made on the \_\_(day)\_\_ of \_\_(month)\_\_, \_\_(year)\_\_, by and between \_\_JOSHUA NIERODZINSKI\_\_ hereinafter then "Artist" and \_\_(NAME)\_\_ hereinafter to as "Collector".

WITNESSETH: WHEREAS the Artist has created that certain work of art;

**Title:**

**Date:**

**Dimensions:**

**Material:**

**Description:**

**Inventory #:**

**Identification #**

(hereinafter "the Artwork"); and

WHEREAS Artist is willing to sell the Artwork to Collector and Collector is willing to purchase the Artwork from Artist, subject to mutual obligations, covenants, and conditions herein; and

WHEREAS Collector and Artist recognize the value of the Artwork and that it will be affected by each and every other work of art the Artist has created and will hereafter create; and

WHEREAS the parties expect the value of the Artwork to increase hereafter; and

WHEREAS Collector and Artist recognize that it is fitting and proper that Artist participate in any appreciated value which may thus be created in the Artwork; and

WHEREAS the parties wish the integrity and clarity of the Artist's ideas and statements in the Artwork to be maintained and subject in part to the will or advice of the creator of the Artwork,

NOW, THEREFORE, in consideration of the foregoing premises and the mutual covenants hereinafter set forth and other valuable considerations the parties hereto agree as follows:

**PURCHASE AND SALE. ARTICLE ONE:** The Artist hereby sells to Collector and Collector hereby purchases the Artwork from Artist, subject to all the covenants herein set forth (for the price of (enter Amount) receipt of which is hereby acknowledged) (at the agreed valuation for the purposes of this agreement) (enter Amount).

**FUTURE TRANSFERS: ARTICLE TWO:** Collector covenants that in the event Collector shall hereafter sell, give, grant, barter, exchange, assign, transfer, convey or alienate the Artwork in any manner whatsoever or if the Artwork shall pass by inheritance or bequest or by operation of law, or if the Artwork shall be destroyed and insurance proceeds paid therefore, Collector or Collector's personal representative shall:

- (a) File a current TRANSFER AGREEMENT AND RECORD in the form and containing the information set forth and called for in the specimen hereunto annexed and made a part hereof, completed and dated, and subscribed by Collector or Collector's personal representative and collector's transferee, with the (Artist at the current address or Artist's agent for this purpose, within thirty (30) days of such transfer, distribution, or payment of insurance proceeds, and shall
- (b) Pay a sum equal to fifteen percent (15%) of the Appreciated Value (as hereinafter defined), if any, occasioned by such transfer or distribution or payment of insurance proceeds to Artist or Artist's agent or custodial wallet for this purpose, within thirty (30) days of such transfer, distribution, or payment of insurance proceeds.

**PRICE/VALUE. ARTICLE THREE:** The "price or value" to be entered on a TRANSFER AGREEMENT AND RECORD shall be:

- (a) the actual selling price if the Artwork is sold for money; or
- (b) the money value of the consideration if the Artwork is bartered or exchanged for a valuable consideration; or
- (c) The fair market value of the Artwork if it is transferred in any other manner.

**APPRECIATED VALUE. ARTICLE FOUR:** "Appreciated Value" of the Artwork for the purposes of this Agreement, shall be the increase, if any, in the value or price of the Artwork set forth in a current duly executed and filed TRANSFER AGREEMENT AND RECORD over the price or value set forth in the last prior duly executed and filed TRANSFER AGREEMENT AND RECORD, or, if there be no prior duly executed and filed TRANSFER AGREEMENT AND RECORD, over the price or value set forth in ARTICLE ONE herein

- (a) In the event a current duly executed TRANSFER AGREEMENT AND RECORD is not timely filed as required by ARTICLE TWO herein, Appreciated Value shall nonetheless be computed as if such current TRANSFER AGREEMENT AND RECORD had been duly executed and filed, with a price or value set forth therein equal to the actual market value of the Artwork at the time of the current transfer or at the time of the discovery of such transfer.

**TRANSFEREES TO RATIFY AGREEMENT. ARTICLE FIVE:** Collector hereby covenants that he will not hereafter sell, give, grant, barter, exchange, assign, transfer, convey or alienate the Artwork in any manner whatsoever or permit the Artwork to pass by inheritance or bequest or by operation of law to any person without procuring such transferee's ratification and affirmation of all the terms of this Agreement and transferee's agreement to be bound hereby and to perform and fulfill all of the Collector's covenants set forth herein, said ratification, affirmation and agreement to be evidenced by such transferee's subscription of a current duly completed and filed TRANSFER AGREEMENT AND RECORD.

**PROVENANCE. ARTICLE SIX:** Artist hereby covenants that (Artist) (Artist's agent for the purpose as set forth in ARTICLE TWO) will maintain a file and record of each and every transfer of the Artwork for which a TRANSFER AGREEMENT AND

RECORD has been duly filed pursuant to ARTICLE TWO herein and will at the request of the Collector or Collector's successors in interest, as that interest shall appear, furnish in writing a provenance and history of the Artwork based upon said records and upon Collectors' notices of proposed public exhibitions and will certify in writing said provenance and history and the authenticity of the Artwork to Collector and his successors in interest, and, at Collector's reasonable request, to critics and scholars. Said records shall be the sole property of the Artist.

**EXHIBITION.** ARTICLE SEVEN: Artist and Collector mutually covenant that (a) Collector shall give Artist written notice of Collector's intention to cause or permit the Artwork to be exhibited to the public, advising Artist of all details of such proposed exhibition which shall have been made known to Collector by the exhibitor. Said notice shall be given for each such exhibition prior to any communication to the exhibitor or the public of Collector's intention to cause or permit the Artwork to be exhibited to the public. Artist shall forthwith communicate to Collector and the exhibitor any and all advice or requests that he may have regarding the proposed exhibition of the Artwork. Collector shall not cause or permit the Artwork to be exhibited to the public except upon compliance with the terms of this article. (b) Collector shall not cause or permit any public exhibition of the Artwork except with the consent of the Artist to each such exhibition. (c)

Artist's failure to timely respond to Collector's timely notice shall be deemed a waiver of Artist's rights under this article, in respect to such exhibition and shall operate as a consent to such exhibition and to all details thereof of which Artist shall have been given timely notice.

**ARTIST'S POSSESSION.** ARTICLE EIGHT: Artist and Collector mutually covenant that Artist shall have the right, upon written notice and demand to Collector made not later than 120 days prior to the proposed shipping date therefore, to possession of the Artwork for a period not to exceed sixty (60) days solely for the purpose of exhibition of the Artwork to the public at and by a public or non-profit institution, at no expense whatsoever to Collector. Collector shall have the right to satisfactory proof of sufficient insurance and pre-paid transportation or satisfactory proof of financial responsibility therefore. Artist shall have the right to such possession of the Artwork for one period not to exceed sixty (60) days every five (5) years.

**NON-DESTRUCTION.** ARTICLE NINE: Collector covenants that Collector will not intentionally destroy, damage, alter, modify or change the Artwork in any way whatsoever.

**REPAIRS.** ARTICLE TEN: Collector covenants that in the event of any damage to the Artwork, Collector shall consult with Artist prior to the commencement of any repairs or restoration and if practicable Artist shall be given the opportunity to make any required repairs or restoration.

**RENTS.** ARTICLE ELEVEN: In the event that Collector shall become entitled to any monies as rent or other compensation for the use of the Artwork at public exhibition, the Collector shall pay a sum equal to one-half of said monies to (Artist)

(Artist's agent as set forth in ARTICLE TWO herein) within thirty (30) days of the date when Collector shall become entitled to such monies.

**REPRODUCTION.** ARTICLE TWELVE: Artist hereby reserves all rights whatsoever to copy or reproduce the Artwork. Artist shall not unreasonably refuse permission to reproduce the Artwork in catalogues and the like incidental to public exhibition of the Artwork.

**NON-ASSIGNABILITY.** ARTICLE THIRTEEN: No rights created in the Artist and for the Artist's benefit by the terms of this Agreement shall be assignable by Artist during the Artist's lifetime, except that nothing herein contained shall be construed as a limitation on Artist's rights under any copyright laws to which the Artwork may be subject.

**NOTICE.** ARTICLE FOURTEEN: Artist and Collector mutually covenant that there shall be permanently affixed to the Artwork a NOTICE of the existence of this Agreement and that ownership, transfer, exhibition and reproduction of the Artwork are subject to the covenants herein, said NOTICE to be in the form of the specimen hereunto annexed and made a part of this Agreement. (a) Because the Artwork is of such nature that its existence or essence is represented by documentation or because documentation is deemed by Artist to be part of the Artwork, the permanent affixing of said NOTICE to the documentation shall satisfy the requirements of this article.

**TRANSFEREES BOUND.** ARTICLE FIFTEEN: In the event the Artwork shall hereafter be transferred or otherwise alienated from Collector or Collector's estate in any manner whatsoever, any transferee taking the Artwork with notice of this Agreement shall in every respect be bound and liable to perform and fulfill each and every covenant herein as if such transferee had duly made and subscribed a properly executed TRANSFER AGREEMENT AND RECORD in accordance with ARTICLE TWO and ARTICLE FIVE herein at the time the Artwork was transferred to him or her.

**EXPIRATION.** ARTICLE SIXTEEN: This Agreement and the covenants herein shall be binding upon the parties, their heirs, legatees, executors, administrators, assigns, transferees and all other successors in interest and the Collector's covenants do attach and run with the Artwork and shall be binding to and until twenty-one (21) years after the deaths of Artist and Artist's surviving spouse, if any, except that the covenants set forth in ARTICLE SEVEN, ARTICLE EIGHT and ARTICLE TEN herein shall be binding only during the life of the Artist.

**WAIVERS NOT CONTINUING.** ARTICLE SEVENTEEN: Any waiver by either party of any provision of this Agreement, or of any right hereunder, shall not be deemed a continuing waiver and shall not prevent or stop such party from thereafter enforcing such provision or right, and the failure of either party to insist in any one or more instances upon the strict performance of any of the terms or provisions of this Agreement by the other party shall not be construed as a waiver or relinquishment for the future of any such terms or provisions, but the same shall continue in full force and effect. **AMENDMENT IN WRITING.** ARTICLE EIGHTEEN: This Agreement shall not be subject to amendment, modification, or termination, except in writing signed by both parties.

**ATTORNEYS' FEES. ARTICLE NINETEEN:** In the event that either party shall hereafter bring any action upon any default in performance or observance of any covenant herein, the party aggrieved may recover reasonable attorneys' fees in addition to whatever remedies may be available to him or her. IN WITNESS WHEREOF, the parties have set their hands and seals to this Agreement as of the day and year first above written.