

CONSIGNMENT AGREEMENT

This Agreement entered into on the _____ day of _____, 20____ by and between _____ (herein "Artist"), residing at _____

_____, and **The Arts Council of Mercer County, Inc.** (herein "Gallery"), whose principal place of business is **120 South Main Street, Harrodsburg, KY 40330.**

WHEREAS, Artist is in the business of creating works of art and Gallery is in the business of exhibiting and selling works of art; and

WHEREAS, Artist is a member of Gallery in good standing; and

WHEREAS, the parties wish to enter into a business relationship for the sale by Gallery of Works of Art created by Artist.

NOW, THEREFORE, in consideration of the foregoing premises and conditions, mutual covenants contained herein, and for other valuable considerations, the parties have agreed as follows:

1. **AGENCY; FIDUCIARY DUTY OF GALLERY.** Artist appoints and establishes Gallery as agent for the purpose of exhibition and sale of the consigned Works of Art under this Agreement. The parties agree that Gallery, as agent for Artist, has a fiduciary relationship to Artist and owes a duty to Artist to deal fairly and honestly, to care prudently for and to manage the business affairs for Artist on sales and commissions, to account periodically and disclose promptly all information relevant to Gallery's representation of Artist. Parties agree that Gallery has a legal obligation to act only in the interest of Artist and to forego all advantages aside from proper compensation.

2. **CONSIGNMENT.** Artist shall consign to Gallery, and Gallery shall accept consignment of, those Works of Art described in the attached document (herein "Inventory Sheet"), which is a part of this Agreement, for the full term of this Agreement. If agreed to by both parties, modifications and additions may be made to Inventory Sheet. Artist and Gallery specifically agree that Artist shall be free to exhibit and sell any Work of Art not assigned to Gallery or otherwise included under this paragraph.

3. **DURATION; TERMINATION.** This Agreement shall commence upon the date of signing and shall continue in effect for twelve (12) months. Thereafter, consignment shall continue until Artist requests the return of any or all Works of Art or Gallery requests that Artist take back any or all Works of Art with which request the other party shall comply promptly. Either party may terminate this Agreement by giving seven (7) days written notice. Artist must be a paid member of Gallery in good standing for the duration of this Agreement. In the event of Artist's death, the estate of Artist shall have the right to

terminate this Agreement. Upon any event of termination, all accounts shall be settled and Artist shall recover all unsold Works of Art within thirty (30) days.

4. DELIVERY. Artist shall be solely responsible for delivering the consigned Works of Art to Gallery, including packing and shipping charges, insurance costs, other handling expenses, and risk of loss or damage incurred in the delivery of Works of Art, and in their return to Artist.

5. TITLE; COPYRIGHT. Artist warrants and represents that he/she created the Works of Art, possesses unencumbered title and full copyright to each and all Works of Art consigned to Gallery under this Agreement, and that their descriptions are true and accurate. This Agreement is not intended nor does it transfer any rights of title or copyright to Gallery. Title to the consigned Works of Art shall remain in Artist's name until delivery to purchaser and Artist is paid in full. Title then passes directly to the purchaser. Gallery shall not attempt to or actually modify or alter the artistic or structural integrity of any Works of Art consigned under this Agreement

6. INSURANCE. Gallery shall be responsible for all loss of, or damage to, the consigned Works of Art while in its possession (except for damage resulting from flaws inherent in the Works of Art); specifically from the date of delivery to Gallery until the date of delivery to a purchaser, repossession by Artist, or return delivery to Artist. Gallery warrants and represents that it has an insurance policy, which insures all of Artist's Works of Art against loss, theft, fire, and destruction of any kind. Gallery agrees to indemnify, and hold harmless, Artist from any loss resulting from lapse of coverage, error, or failure by Gallery to have the insurance coverage warranted. Gallery's liability under this paragraph is limited to the amount that would have been due to Artist if the Work of Art had been sold at the price stated herein.

7. PROMOTION. Gallery agrees to exhibit the consigned Works of Art within a reasonable time following the commencement of this Agreement, and continuously thereafter until the expiration or termination of this Agreement. Gallery shall use its best efforts to promote the sale of Artist's Works of Art. Gallery agrees to provide adequate display of the Works of Art, and to undertake other promotional activities. Gallery reserves the right to copy or photograph Works of Art for the purpose of advertising.

8. SALES PRICES; COMMISSIONS. Gallery shall sell consigned Works of Art at the prices mutually agreed to by both parties as specified in writing on Inventory Sheet. Gallery and Artist agree that Gallery's commission is to be thirty (30) percent of the Retail Price of the Works of Art, which may be reduced based on the number of volunteer hours served by Artist on a monthly basis, as specified in attached Commission Schedule. The Retail Price of the Works of Art may be discounted by Gallery if Gallery's commission is reduced accordingly and Artist receives the same amount Artist would otherwise receive; specifically Gallery may discount Works of Art up to the amount of Gallery's commission, therefore forgoing Gallery's commission to extend such discount to a purchaser. Any other changes in the Retail Price, or in Gallery's commission, must be agreed upon in advance by Artist and Gallery.

9. PAYMENT. The parties agree that Gallery shall hold the proceeds from sales of the consigned Works of Art in trust for the benefit of Artist. Gallery shall get written consent from Artist before any installment sales are made. Gallery shall pay all amounts due to Artist before any proceeds of sales can be made available to creditors of Gallery. Gallery shall pay Artist's share within forty-five (45) days

from receipt of payment from purchaser of the sale of any Works of Art. Gallery assumes full risk for the failure to pay on the part of any purchaser to whom it has sold Works of Art.

10. RECORDS. Artist shall have the right to inventory his/her Works of Art in Gallery and, with a fourteen (14) day notice, to inspect records pertaining to sales of the Works of Art.

11. ASSIGNMENT. This Agreement may not be assigned by Gallery to another person or gallery without the prior written consent of Artist.

12. AMENDMENTS. This Agreement may be amended, waived, discharged, modified, or terminated only by an instrument in writing signed by both parties and attached to this Agreement. Both parties must initial any deletions made on this Agreement and any additional provisions written onto this Agreement .

13. INTEGRATION. This Agreement embodies and contains the entire Agreement and understandings of the parties and shall be binding upon and inure to the benefit of and be enforceable by their respective heirs, legal representatives, successors, and assigns.

14. SEVERABILITY. If any provision of this Agreement or the application thereof is held invalid, the invalidity shall not affect other provision or applications of this Agreement which can be given effect without the invalid provisions or application, and to this end the provisions of this Agreement are declared to be severable.

15. CHOICE OF LAW. This Agreement is entered into in the State of Kentucky, contains covenants to be performed within the State of Kentucky, and shall be construed in accordance with and governed by the laws of the State of Kentucky. All performance by both parties shall be in accordance with Kentucky Revised Statutes §§ 365.850–875.

SIGNATURE OF ARTIST

SIGNATURE OF AUTHORIZED REPRESENTATIVE
OF GALLERY

PHONE NUMBER

DATE

DATE