

**Salem Arts Association at the Winter Market Consignment Contract**

November 10th -December 22nd, 2011

**ARTIST:**

Name \_\_\_\_\_

Address \_\_\_\_\_

City \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_

Phone Number(s) \_\_\_\_\_

E-Mail \_\_\_\_\_

and

**THE GALLERY:**

**Salem Arts Association**

**PO Box 226**

**Salem, MA 01970**

**Doing Business at**

**24 New Derby Street**

**Unit 4**

**Salem, MA 01970**

hereby enter into the following Agreement:

**1. Agency; Purposes.** The Artist appoints The Gallery as the sole and exclusive agent for the work(s) of art ("the **Artworks**") consigned under this Agreement, for the purposes of exhibition and sale. The Gallery shall not permit the Artworks to be used for any purposes contrary to those purposes permitted herein without the prior written consent of the Artist. This Agreement applies only to works consigned under this Agreement and does not make The Gallery a general agent for any other works of the Artist.

**2. Exclusive Representation.** This contract does not seek an exclusive arrangement.

**3. Consignment.** The Artist hereby consigns to The Gallery, and The Gallery accepts on consignment, those Artworks listed on the attached Inventory Sheet which is a part of this Agreement. Additional Inventory Sheets may be incorporated into and subject to this Agreement at such time as both parties agree to the consignment of other works of art. All Inventory Sheets shall be signed by the Artist and The Gallery.

**4. Authority of Accepted Artist's Works.** Works of art may be accepted for consignment only by The Gallery or by any person designated by The Gallery in writing as authorized to accept works of art hereunder. The Gallery may reject artworks at The Gallery's sole discretion.

**5. Warranty.** The Artist hereby warrants that he/she created and possesses unencumbered title to the Artworks, and that their descriptions are true and accurate.

**6. Duration of Consignment.** The Artist and The Gallery agree that the initial term of consignment for the Artworks is to be November 8th, 2011 until December 22nd, 2011. The Artist and The Gallery further agree that the Artist, in its sole discretion, may request the return of the Artworks during the Term for a period of up to seven (7) days (a "Withdrawal Period"), which request The Gallery shall reasonably comply with. During said Withdrawal Period, all provisions contained within this Agreement shall remain enforceable. There is no prohibition as to how many Withdrawal Periods the Artist may make during the Term.

At the end of said Term, consignment shall continue until the Artist requests the return of any or all of the Artworks or The Gallery requests that the Artist take back any or all of the Artworks (an "Extended Term"), with which request the other party shall comply within thirty (30) days. This Agreement shall be valid and enforceable during the Term and any Extended Term and shall automatically terminate upon the sale and/or return of all the Artist's Artworks.

**7. Transportation Responsibilities.** The Gallery will accept Artworks which are delivered in person by the Artist or an Artist's Representative only.

**8. Responsibility for Loss or Damage, Insurance Coverage.** The Gallery shall be responsible for the safekeeping of all consigned Artworks while they are in its custody. The Gallery shall be strictly liable to the Artist for the loss or damage of the Artworks when the loss or damage of the Artwork is the direct result of the actions or inactions of The Gallery (except for damage resulting from flaws inherent in the Artworks). In the event of such loss or damage to the Artwork, The Gallery shall reimburse the Artist the Retail Price, as listed on the Inventory Sheet, reduced by The Gallery's commission as described in Section 12 of this Agreement. The Gallery shall provide the Artist with all relevant information about its insurance coverage for the Artworks if the Artist requests this information.

**9. Fiduciary Responsibilities.** Title to each of the Artworks remains with the Artist until the Artist has been paid the full amount owing him or her for the Artworks; title then passes directly to the purchaser. All proceeds from the sale of the Artworks shall be held in trust for the Artist. The Gallery shall pay all amounts due the Artist before any proceeds of sales can be made available to creditors of The Gallery.

**10. Notice of Consignment.** The Gallery shall give notice, by means of a clear and conspicuous sign in full public view, that certain works of art are being sold subject to a contract of consignment.

**11. Removal from Gallery.** The Gallery shall not lend out, remove from the premises, or sell on approval any of the Artworks, without the prior written consent of the Artist.

**12. Pricing; Gallery's Commission; Terms of Payment.** The Gallery shall sell the Artworks only at the Retail Price specified on the Inventory Sheet. The Gallery and the Artist agree that The Gallery's commission is to be 40% (20% if the artist volunteers) of the Retail Price of the Artwork. Any change in the Retail Price, or in The Gallery's commission, must be agreed to either orally or in writing in advance of the sale by the Artist and The Gallery. Payment to the Artist shall be made by The Gallery on the 15th day of the first month following the satisfaction of the expected thirty day refund/exchange policy offered by The Gallery and will include all commissions due for any/all Artworks sold. The Gallery assumes full risk for the failure of any purchaser to whom The Gallery has sold an Artwork to pay the full amount.

**13. Framing.** Framing (if desired) of any Artwork is the responsibility of the Artist.

**14. Promotion.** The Gallery shall use its reasonable best efforts to promote the sale of the Artworks. The Gallery agrees to provide adequate display of the Artworks, and to undertake other promotional activities on the Artist's behalf. The Gallery shall identify clearly all Artworks with the Artist's name, and the Artist's name shall be included on the bill of sale of each of the Artworks. The Gallery and the Artist shall agree in writing in advance on the division of artistic control and of financial responsibility for expenses incurred in The Gallery's exhibitions and other promotional activities undertaken on the Artist's behalf.

**15. Reproduction.** The Artist reserves all rights to the reproduction of the Artworks except as noted in writing to the contrary. The Gallery will not permit any of the Artworks to be copied, photographed or reproduced without the written permission of the Artist. In every instance of such use, the Artist shall be acknowledged as the creator and copyright owner of the Artworks. The Gallery shall include on each bill of sale of any Artwork the following legend: "All rights to reproduction of the work(s) of art identified herein are retained by the Artist: (Artist's Name)."

**16. Accounting.** A statement of accounts for all sales of the Artworks shall be furnished by The Gallery to the Artist on the 15th day of January, 2012, with the payment of all commissions then due. The Artist shall have the right to inventory his or her Artworks in The Gallery and to inspect any books and records pertaining to sales of the Artworks. As The Gallery expects to offer a 30-day refund/exchange policy, accounting of sales will be furnished as of the 15th day of the month subsequent to the satisfaction of the 30-day refund/exchange policy.

**17. Termination of Agreement.** Notwithstanding any other provision of this Agreement, this Agreement may be terminated at any time by either The Gallery or the Artist, by giving a thirty (30) day written notification of termination from either party to the other. In the event of the Artist's death, the estate of the Artist shall have the right to terminate the Agreement. Within thirty (30) days of the notification of termination, all accounts shall be settled and all unsold Artworks shall be returned to the Artist by The Gallery.

**18. Procedures for Modification.** Amendments to this Agreement must be signed by both Artist and Gallery and attached to this Agreement. Both parties must initial any deletions made on this form and any additional provisions written onto it.

**19. Separability.** This Agreement represents the entire agreement between The Artist and the Gallery. If any term or provision of this Agreement shall, to any extent, be invalid or unenforceable, the remainder of this Agreement shall not be affected thereby, and each term and provision of this Agreement shall be valid and be enforced to the fullest extent permitted by law.

**20. Assignment and Inure.** This Agreement shall not be assigned by either the Artist or The Gallery, nor shall it inure to the benefit of the successors of The Gallery, whether by operation of law or otherwise, without the prior written consent of the Artist.

**21. Attorney's Fees.** In any proceeding to enforce any part of this contract, the aggrieved party shall be entitled to reasonable attorney's fees in addition to any available remedy.

**22. Choice of Law.** This Agreement shall be governed by the law of the State of Massachusetts.

Sincerely, \_\_\_\_\_

Sincerely, \_\_\_\_\_

**Length of Contract**

From November 8, 2011 to December 22, 2011

SALEM ARTS  
ASSOCIATION

Consented and agreed to:

Artist \_\_\_\_\_ Date \_\_\_\_\_

Consented and agreed to:

The Gallery \_\_\_\_\_ Date \_\_\_\_\_