



The Holden Arboretum
9500 Sperry Road
Kirtland, Ohio 44094
(440)946-4400
www.holdenarb.org

Artist Consignment Agreement

This Artist Consignment Agreement (this “Agreement”) is made and entered into this _____ day of _____, 2008 by and between The Holden Arboretum, an Ohio corporation (the “Arboretum”) and _____ being referred to herein as (the “Artist”).

Recitals

WHEREAS, the Artist has original merchandise or artwork (the “Consigned Merchandise”) created by the Artist available for sale or display; and

WHEREAS, the Artist desires to make the Consigned Merchandise available for sale or display by the Arboretum, and the Arboretum desires to accept the Artist’s Consigned Merchandise for sale or display in the Arboretum’s museum store/lobby, and to hold such Consigned Merchandise on a consignment basis in accordance with the terms of this agreement.

NOW THEREFORE, in consideration of the premises and the mutual covenants and agreements contained herein, the Artist and the Arboretum agree as follows:

1. Scope of Relationship; Independent Contractors. The relationship between the Artist and the Arboretum shall be that of independent contractors. All persons the Artist furnishes to provide professional services to the Arboretum shall be employees or subcontractors of the Artist and shall be neither the employees nor agents of the Arboretum. The Artist is not eligible to participate in any employment benefit plans or other benefits or conditions of employment available to the Arboretum’s employees.

2. Consignment.

2.1 The Arboretum accepts on consignment, the Consigned Merchandise listed on the list of inventory (“Inventory Sheet”), which is attached hereto as a part of this Agreement. Additional Inventory Sheets may be incorporated into this Agreement at such time as both parties agree to the consignment of other Consigned Merchandise. All Inventory Sheets shall be signed by the Artist and the Arboretum.

2.2 All sales of Consigned Merchandise will be transacted through The Holden Arboretum Museum Store.

2.3 The Arboretum may, at its discretion, photograph, telecast or reproduce images of the Consigned Merchandise in its publications, website and other promotional materials.

2.4 The Arboretum shall sell the Consigned Merchandise at the retail price established by the Artist, as specified on the Inventory Sheet, and will provide price and display tags for all Consigned Merchandise.

2.5 The Artist is responsible for keeping his or her contact information with the Arboretum current. In the event the Arboretum is unable to contact the Artist for a period of ninety (90) days, Consigned Merchandise will be considered abandoned and will be disposed of at the discretion of the Arboretum.

3. Term. The term ("Term") of this Agreement commences **(place an X in the appropriate parenthesis)**:

3.1. () This contract is for a minimum of ninety (90) days, after which time either party may discontinue this agreement by written or verbal notice, **or**

3.2. () This contract will cover the following time period _____ 20____
through _____ 20_____.

[This Agreement shall automatically terminate with the death of the Artist or if the Arboretum becomes bankrupt or insolvent.]

4. Payment Terms. The Arboretum and the Artist agree that the Arboretum's commission is to be 40% of the retail price of the Consigned Merchandise. The Arboretum will pay to the Artist 60% of the retail price of the Consigned Merchandise sold in the month no later than thirty (30) days after the end of the month of the sale.

5. Security and Risk of Loss. The Arboretum shall provide the same level of care, security and protection for Consigned Merchandise as is currently provided for Arboretum property. The Arboretum upon receipt of the Consigned Merchandise will report evidence of any damage to the Artist.

6. Insurance. The Arboretum shall be liable up to and not exceeding twenty-five hundred dollars (\$2,500) per individual Artist for the loss or damage (except from flaws or damage inherent in the Consigned Merchandise) to any and all Consigned Merchandise delivered to the Arboretum. It becomes the responsibility of the Artist to maintain additional insurance necessary to insure any and all of the Consigned Merchandise for the full amount the Artist would have received from the Arboretum if the Consigned Merchandise would have been sold.

7. Security Interest. Title to and a security interest in the Consigned Merchandise are reserved to the Artist. The Consigned Merchandise shall not be subject to claims by the Arboretum's creditors. The Arboretum acknowledges that it has no right to and shall not pledge or encumber any Consigned Merchandise in its possession nor incur any charge or obligation for which the Artist may be liable.

8. Transportation of Consigned Merchandise. The Artist is responsible for all packing and shipping expenses associated with the delivery or return of their Consigned Merchandise. The Artist may personally deliver/pick-up their Consigned Merchandise during normal business hours with forty-eight (48) hours notice to The Holden Arboretum Museum Store.

9. Consequential Damages. In no event under or in connection with the activities contemplated by this Agreement shall either party be liable to the other party for special, incidental or consequential damages, including but not limited to loss of income, sales, profits or goodwill.

10. Miscellaneous.

10.1 This Agreement constitutes the sole understanding of the parties with respect to the matters contemplated hereby and thereby and supersedes and renders null and void all other prior agreements and understandings between the parties with respect to such matters. Any provision of this Agreement can be amended if, and only if, such amendment is in writing and signed by both parties.

10.2 Neither party may assign its rights or delegate its duties under this Agreement without the prior written consent of the other party.

10.3 This Agreement shall be governed by the laws of the State of Ohio, notwithstanding any conflict of law provision to the contrary.

10.4 If any provisions in this Agreement are determined by any court to be invalid or unenforceable, the invalid or unenforceable provisions of this Agreement shall not affect the other provisions hereof which shall continue in full force and effect.

10.5 This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date set forth above.

THE HOLDEN ARBORETUM

ARTIST

Signature _____

Signature _____

Print Name: _____

Print Name: _____

Print Title: _____

Address: _____

Phone No.: _____

Email: _____