



ARTIST'S LISTING AND SALES AGREEMENT

This Artist's Listing and Sales Agreement is entered between Eclectic Treasures (Yesterday's Memories Inc) ("we", "us") and _____ ("you", "your") on the _____ day of _____, 20____.

We desire to serve as your agent to exhibit and sell your works of art ("art") consigned to us at our Gallery. In addition, we also provide a marketing service for your art by listing or linking your art on the internet through our "www.eclecticgallery.net" web site and other means.

You desire to appoint us as your agent for the exhibition and sale of your art consigned to our Gallery under this agreement. In addition, you desire to use our marketing service to exhibit and sell your art.

In consideration of our mutual desire to enter into this agreement and agency relationship for the sale of your art, you agree with us to the following terms and conditions:

1. Grant of Agency. You grant us full power and authority to act as your agent for the limited purpose of listing, exhibiting and selling your art which is listed in your Schedule A.
2. Consignment of Your Art. You consign all your art listed in your Schedule A to us at our Gallery for sale under the remaining terms and conditions of this agreement. Unless otherwise agreed in writing, you grant us the exclusive right to sell your art consigned to us under this agreement.
3. Your Duties. You will submit to us a Schedule A (example attached), which is a detailed list and description of your art including the price for each. You will provide us an updated Schedule A from time to time when you consign additional art with us. Every updated Schedule A you provide us must be signed by you and us. You must also provide us with an image of each piece of your art in the medium and size we specify for electronic screening and reproduction. Unless we specify otherwise, the images you submit should be in jpeg (.jpg) form. In addition, you must furnish us with a self-portrait and your brief biography.
4. Your Representations. You consent to allow us to use your name, self-portrait and biographical information in the course of selling your art. You understand that all images and other materials provided by you under this agreement shall remain in our possession. You represent and warrant that each piece of your art subject to this Agreement is your original work and is not owned or created by any third party. You represent and warrant that your copyrights to each piece of your art subject to this agreement have not been assigned to any third party. You represent and warrant to us that each piece of your art subject to this agreement is free of all liens, security interests or other encumbrances to free and clear title of ownership by you. You represent and warrant to us that you will not allow any of your art consigned to us to be used as collateral for any debt.

5. Our Duties. We will clearly identify your art with your name, and your name will be included on the bill of sale for each piece of your art that we sell. We may also list or link your art in our web site and use other methods of sale in our discretion. We are happy to discuss additional methods of sales for your art if you wish to request any additional method. However, we reserve the right to use only the method(s) which we deem proper and likely to generate a sale.

6. Our Representations. We shall make reasonable, good-faith efforts to promote the sale of your art. We do not guarantee the sale of your art. We represent and warrant to you that each piece of your art consigned to us will not be used as collateral for any debt.

7. Transportation and Storage of Your Art. You are responsible for the costs of packing and shipping, insurance, other handling expenses, and the risk of loss or damage incurred in the transportation of your art either: a) from you to us; b) from us to you, if you requested your art to be shipped to you; c) from you to a buyer at our request, or; d) from a buyer to us or to you, if your art is rejected by the buyer but not in a damaged condition. We are responsible for the costs of packing and shipping, insurance, other handling expenses, and the risk of loss or damage incurred in the transportation of your art when it is being delivered from us to a buyer. We are responsible for storing and using custom-made boxes and shipping containers made specifically for works of art when your art is in our possession and during delivery. During the term of this agreement, we bear the costs of storage for your art when your art is in our possession.

8. Display of Your Art at our Gallery. We attempt to display all art in a manner that befits the art and we will be happy to discuss any issue you may have concerning display of your art. However, we reserve the right to display your art in the manner we deem appropriate and reasonable in our sole discretion. We reserve the right to refuse to list, display, exhibit or sell any piece of your art at our sole discretion. We will notify you if any piece of your art is not accepted.

9. Listing and Exhibition of Your Art. We may market by display in our Gallery, or by listing your art on our web site ("www.eclecticgallery.net"), or by other means such as advertising in various media, printed promotional materials, photographic means, exhibitions or through our own agents. We may use any one or more of these methods of listing and exhibiting your art to provide potential purchasers access to your art. Please understand that, because we bear the cost of these methods, we reserve the right to determine in our sole discretion how we may market your art consigned to the Gallery under this agreement.

10. Limited Assignment of Your Copyrights. You grant us an exclusive assignment of your copyrights in all your art consigned to our Gallery. You give us permission to reproduce and use images of your art in whatever form for purposes of exhibition. We will attribute your art to you. You will not allow anyone else to copy your art without our permission until this assignment is revoked. You may not revoke this assignment while we are selling your art. You may revoke this assignment to a particular piece of art when it is sold. Your assignment is revoked when this agreement is terminated. You agree to give reasonable notice when you revoke your assignment and to allow us reasonable time after your notice to remove any copyrighted materials.

11. Sale of Your Art. We may sell any piece of your art at the retail price indicated by you on Schedule A, unless you agree with us in writing to any change to the retail price of a piece of art. For internet sales, we will notify you of any proposed sale within twenty-four (24) hours after we receive a firm purchase offer for the art in question. Within ___ days/weeks after receiving notice of the proposed internet sale, you will ship the art in question to us or directly to the buyer as we may direct you. We will collect sales proceeds, pay applicable sales taxes, insurance and other related sales expenses, and deliver your art to the buyer promptly after we receive possession of your art and payment of the purchase price. We will pay you the sales price less our compensation, taxes and other related sales expenses, on the next scheduled date of payment to you. You authorize us to deduct our compensation, taxes and other related sales expenses from the payment received. No

sale shall be deemed final until payment by purchaser clears our depository bank account. Title to the artwork shall be assigned to the buyer, and you shall retain the copyright.

12. Our Compensation for Selling Your Art. As our compensation for acting as your agent and for the sale of your art, you agree to the following compensation structure:

a. Direct Sales Services. For consigned art, you authorize us to deduct a commission of _____ percent (____%) of the purchase price of each piece of your art sold by or through us. For internet sales, you authorize us to deduct a commission of _____ percent (____%) of the purchase price of each piece of your art sold by or through us.

b. Sale Deemed Complete. For purposes of this agreement, a direct sale shall be deemed complete, and our compensation immediately due and payable to us, 3 days after delivery of your art to the buyer. In the event you ship your art to the buyer before we receive payment, you will be liable for our compensation.

c. Referral and Commission Sales. You shall pay us a commission of _____ percent (____%) of the purchase price for each referral sale or commission sale. A referral sale occurs with respect to the sale of your art without direct involvement by us when a contact between you and a buyer of your art arose from, or is related to, a visit to our Gallery or contact with our web site by the buyer, or by any contact form, email, fax or telephone or personal communication from us to the buyer which directed the buyer to you. A commission sale occurs with respect to the sale of your art (with or without direct involvement of Gallery) when a contact between you and a buyer of your art arose from, or is related to, a visit to our Gallery or contact with our web site by the buyer, or by any contact form, email, fax or telephone or personal communication from us to the buyer which directed the buyer to you. Referral sales and commission sales shall include, without limitation, transactions initiated during the term of this agreement and within 90 days following the termination of this agreement. You shall notify us immediately upon receipt of any offer from a referral sale or commission sale.

13. Your Sales Proceeds. On the ___ day of each month, we will pay you the proceeds you are entitled to receive for all sales completed at the end of the previous month. We will provide you with a statement showing you the pieces of your art which were sold, the sale price we received from the buyer, and our compensation and all expenses deducted from the sale price.

14. Terms for Sale and Return of Your Art. We require the receipt of full payment from the buyer prior to shipment of your art to the buyer. We reserve the right, in our sole discretion, to return payment to the buyer for art not received by the buyer. We allow every buyer to return your art for any reason within 3 days from the date your art is received by the buyer. Buyers may return your art for reason of damage or defect later than 3 days after receipt at our sole discretion. Otherwise, all sales are complete 3 days after delivery to the buyer. We do not warrant the workmanship, merchantability, artistic quality or collectable nature of your art. We do not warrant any art to be safe or free from defect.

15. Insurance and Security. We will insure your art from damage caused by us or third parties while your art is in our possession. We will insure your art which we ship to buyers or to you. We will protect your art from liens or security interests, if necessary, by filing a Security Agreement or Financing Statement as required by law. This agreement shall constitute a Security Agreement between you and us.

16. Term and Termination. This agreement shall remain in effect until terminated by either party. Either party may terminate this agreement at any time upon 30 days' notice to the other party. Either party may terminate this agreement immediately in the event of a default by the other party. The obligations of the parties under this agreement, including without limitation the payment of money and remedies related to default, shall survive any termination and remain in full force and effect until discharged.

17. Assignment. Neither party may assign any right, duty or interest under this agreement without the written permission of the other party.

18. Indemnification. We agree to indemnify you and hold you harmless for any damage or injury caused by us arising from the operation of our business. You agree to indemnify and hold us harmless for any damage or injury caused by you for your art or any action you take in the sale of your art.

19. Limit of Liability for Loss or Damage. In the event we are liable to you for loss or damage to any piece of your art, we shall not be liable to you for any amount other than the amount of sales proceeds you were entitled to receive for the lost or damaged piece of art less our compensation, taxes and all other expenses actually incurred in the sale and delivery of your art.

20. Notices. All notices to either party must be made in writing. Notice is deemed made when deposited in the U.S. Mail or, if delivered by any means other than U.S. Mail, when received by the other party. The address for all notices to you is:

The address for all notices to us is:

21. Miscellaneous Provisions. If any provision of this agreement is determined to be unenforceable, the remainder of this agreement shall survive and be enforceable to the fullest extent allowed by law. This agreement constitutes the complete understanding between the parties. No prior statement or agreement shall have any force or effect unless included herein. This agreement shall not be modified except in writing signed by both parties. The laws of the state of North Carolina shall govern this agreement and any disputes concerning this agreement.

22. Resolution of Disputes. In the event an irreconcilable dispute arises under this agreement, the parties agree that the dispute will be subject to a binding arbitration under the rules of the Uniform Arbitration Act. The parties agree that the proper forum for any arbitration and entry of award under this agreement will be Dare County, North Carolina. Each party shall be responsible for their own attorney fees.

Accepted by Artist

Name:

Title:

Accepted by Gallery

Name:

Title:

Personal and Contact Information (required):

Full Legal Name:

Title:

Address:

City:

State:

Zip:

Home Phone:

Work Phone:

Cell Phone:

E-mail Address:

Company Name:

Social Security Number:

EIN:

SCHEDULE A

CONSIGNMENT RECORD

	Title	<input type="checkbox"/> Date	Medium	Dimensions	Selling Price	Gallery Commission	Location <input type="checkbox"/> Onsite (O), Internet (I), Artist (A)
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