



OKLAHOMA • VISUAL  
ARTS • COALITION

## Artist Marketplace Consignment Agreement

The undersigned (“Artist”) hereby agrees to participate in the Oklahoma Visual Arts Coalition (“OVAC”)’s Artist Marketplace (the “Marketplace”) and is subject to the terms and conditions set forth in this Artist Marketplace Consignment Agreement (the “Agreement”) as set forth below.

- 1. AGENCY/PURPOSES.** The Artist appoints OVAC as its exclusive agent for the works of art consigned under this Agreement, for purposes of online electronic exhibition and sale through the Internet via the Marketplace. OVAC shall not permit the works of art to be used for any other purposes without the written consent of the Artist. Notwithstanding the foregoing, OVAC’s permitted uses of the works of art include the use of images embodying the entirety or merely a portion of the works of art for purposes of advertising and promotion of the works of art, in particular, and the Marketplace and OVAC, more generally.
- 2. CONSIGNMENT.** The Artist hereby consigns to OVAC, and OVAC accepts on consignment, those works of art listed on the attached Inventory Sheet which is made an integral part of this Agreement and which may be updated from time to time as works of art are provided to OVAC for consignment.
  - 2.1 The Artist acknowledges that the works of art will not be sold in-person or in a traditional gallery setting; rather, the works of art will be solely and exclusively sold through OVAC’s Marketplace.
  - 2.2 Physical possession of the works of art to be sold in the Marketplace will remain with Artist. Artist shall provide OVAC with one or more photographs of the works of art for use by OVAC in effectuating its role as consignee under the terms of this Agreement.
- 3. WARRANTY.** The Artist hereby warrants that they created the works of art and possesses the unencumbered title to the works of art, and that their descriptions of the works of art are true and accurate.
- 4. DURATION OF CONSIGNMENT.** The Artist and OVAC agree that the initial term of consignment for any work of art is to be 3 months, and that the Artist does not intend to request the return of the works of art before the end of this term. Thereafter, consignment shall continue until the Artist requests return of any or all of the works of art or if OVAC requests that the Artist takes back any or all of the works of art, with which request the other party shall comply promptly.
- 5. LOSS OR DAMAGE.** As OVAC will not be in possession of the works of art, OVAC shall not be responsible for the safekeeping of any consigned works of art. Notwithstanding the prior sentence, in the event that OVAC does actually take physical possession of a work of art OVAC will be strictly liable for any acts of reckless disregard in the safekeeping of the consigned works of art to the Artist for their loss or damage (excepting for damage resulting from flaws inherent in the works of art), as limited to the amount the Artist would have received from OVAC if the works of art had been sold. In no instance shall OVAC be held liable for any damage to the consigned works of art that occurs during shipment of the works of art to an eventual buyer. OVAC strongly encourages Artist to use a reputable shipper to send the purchased works of Art to the eventual buyer and to insure all such shipments to the maximum extent possible.

- 6. FIDUCIARY RESPONSIBILITIES.** Title to each of the works of art remains in the Artist until the Artist has been paid the full amount owing them for the works of art; title then passes directly to the Purchaser. All proceeds from the sale of the works of art shall be held in trust for the Artist. OVAC shall pay all amounts due the Artist before any proceeds of sales can be made available to any creditors of OVAC.
- 7. PRICING; OVAC's COMMISSION; TERMS OF PAYMENT.** The minimum price for the sale of the Artwork shall be set forth on the attached Inventory Sheet along with the value of the Artwork, if different. OVAC shall sell offer for sale the Artwork at the minimum price provided by the Artist. OVAC and the Artist agree that the Gallery's commission is to be **twenty percent (20%) of the sales price** of the work of art. Any change in the sales price or in OVAC's commission, must be agreed to in writing in advance by the Artist and OVAC. Payment to the Artist shall be made by OVAC within 30 days after the date of sale of any of work of art. OVAC assumes full risk for the failure to pay on the part of any purchaser to whom it has sold a work of art by Artist. As required, OVAC will withhold and remit any sales tax required by law. OVAC will not reserve, or place on-hold, any works of art. Works of art consigned to OVAC are sold on a first-come, first-served basis.
- 7.1 For a period of ninety (90) days following the return of any works of art to Artist pursuant to Section 4, Artist shall be obligated to pay OVAC twenty percent (20%) of the sales price of any such work of art.
- 8. PACKING & SHIPPING.** Artist is responsible for safely packing and shipping the work or art to the buyer within five (5) days of notification that the artwork has been sold. If the Artist is not able to ship the work within this timeframe, Artist shall immediately contact OVAC and inform it of such. Artist shall be solely responsible for coordinating and collecting payment from the buyer to cover any packing and shipping costs. Risk of loss incurred during the packing and shipping of the work of art to the buyer shall be solely borne by the Artist.
- 9. INTERPRETATION.** This agreement constitutes the entire agreement between Artist and OVAC and may be amended or modified only in writing signed by both parties. Any changes herein or printed text or written additions must bear the initials of both parties. This agreement shall be governed and interpreted according to the substantive laws of the State of Oklahoma. The exclusive jurisdiction and venue for any litigation arising out of, relating to, and/or incident to this agreement shall be the federal and/or state courts sitting in the city of Oklahoma City, Oklahoma County, Oklahoma.
- 10. TERMINATION.** Notwithstanding any other provisions of this Agreement, this Agreement may be terminated at any time by either OVAC or the Artist, by means of written notice of termination from either party to the other, subject to the provisions of Section 7.1. 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 works of art shall be returned by OVAC.
- 11. INTEGRATION.** This Agreement, along with any exhibits, appendices, addenda, schedules, and amendments hereto, encompasses the entire agreement of the parties, and supersedes all previous understandings and agreements between the parties, whether oral or written. The parties hereby acknowledge and represent, by affixing their hands and seals hereto, that said parties have not relied on any representation, assertion, guarantee, warranty, collateral contract, or other assurance, except those set out in this Agreement, made by or on behalf of any other party or any other person or entity whatsoever, prior to the execution of this Agreement. The parties hereby waive all rights and remedies, at law or in equity, arising or which may arise as the result of a party's reliance on such representation, assertion, guarantee, warranty, collateral contract or other assurance, provided that nothing herein contained shall be construed as a restriction or limitation of said party's right to remedies associated with

the gross negligence, willful misconduct or fraud of any person or party taking place prior to, or contemporaneously with, the execution of this Agreement.

The Artist and OVAC acknowledge that they have full authority to make this agreement, that they have read the conditions above and on the reverse of this form and that they agree to be bound by them.

Signature \_\_\_\_\_ Date \_\_\_\_\_

*Artist*

Artist's Actual First and Last Name: \_\_\_\_\_

Artist's Promotional Name (if different): \_\_\_\_\_

Artist's Social Security Number or Employer Identification Number (for purpose of federal and state taxes):

\_\_\_\_\_

Address: \_\_\_\_\_

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

Telephone: \_\_\_\_\_

Email: \_\_\_\_\_

Signature *Danielle Ezell* \_\_\_\_\_ Date \_\_\_\_\_

*Danielle Ezell, Executive Director*

*On behalf of the Oklahoma Visual Arts Coalition*