

COMMISSION AGREEMENT

Agreement made this _____, day of _____, 20____,

between _____,
(hereinafter called "the Artist"), residing at:

and _____.
(hereinafter called "the Purchaser"), residing at:

WHEREAS, the Artist is a recognized professional artist, and:

WHEREAS, the Purchaser acknowledges sufficient familiarity with the style and quality of the work of the Artist, and;

WHEREAS, the Purchaser desires the Artist to create a work of art (hereinafter called "the Work") in the Artist's unique style, and:

WHEREAS, both parties wish the integrity and clarity of the Artist's ideas and statement in the Work to be maintained:

NOW, THEREFORE, in consideration of the mutual covenants hereinafter contained the parties hereto agree as follows.

1. DESCRIPTION OF WORK. The artist shall create the following work of art:

Title:

Materials:

Approximate Size upon Completion:

Description of the Artwork:

Scope of the Artist's Work:

It is hereby understood and agreed that it may not be possible to create the Work exactly as described herein or as depicted in preliminary designs, and the Artist shall only be bound to use his/her best aesthetic judgment to create the Work according to the style and intent of the design. The Artist is hereby free to make design modifications as the Work progresses.

2. PRICE AND PAYMENT SCHEDULE. The Artist shall sell the Work to the Collector, subject to the conditions herein, for a price of \$ _____ (_____ dollars), payable as follows:

ONE THIRD upon the execution of this agreement;

ONE THIRD upon artist's giving written notification that one-half of the Work is completed;

THE BALANCE upon Artist's giving written notification that Work is completed.

- a. The Purchaser shall pay all applicable taxes in the Work with the final payment.
- b. The following expenses incurred by the Artist in the course of creating, executing, and installing the Work, including but not limited to traveling expenses, shall be reimbursed by the Purchaser, upon the receipt of proper documentation:_____.
- c. The Purchaser agrees to pay all amounts due within two (2) weeks of receipt of notice.
- d. If the Purchaser fails to make any payment when due Artist reserves the right to charge interest of the then prevailing interest rate for banks on the amounts past due. It is understood that delay of payment may proportionately extend the time required to complete the Work.
- e. The purchaser shall have the right to inspect the Work in progress upon reasonable notice to the Artist.
- 3. DATE OF DELIVERY:** The Artist agrees to complete the Work within _____ (_____) days of the signing of this agreement.
- a. The completion date shall be extended for such period of time as the Artist may be disabled by illness preventing progress of the Work.
- b. The completion date shall also be extended in the event of delays caused by events beyond the control of the Artist, including but not limited to fire, thefts, strikes, shortage of materials, and Acts of God. Time shall not be considered of the essence with respect to the completion of the Work.
- c. The Artist will immediately notify the Purchaser of any delays occurring or anticipated.
- d. Completion of the Work is to be determined by the Artist who shall use his/her professional judgment to deviate from any preliminary designs as he/she in good faith believes necessary to create the Work.
- e. Upon nearing completion of the Work, the Artist will give the Purchaser five (5) days advance notice of specific date of delivery so that the Purchaser will be ready to receive the Work and sign the Agreement of original transfer of work of art.
- f. The Collector shall deliver to the Artist within two (2) weeks after completion of the installation of the Work, a copy of a letter officially accepting the Work.
- 4. INSURANCE, SHIPPING, AND INSTALLATION:** The Artist agrees to keep the Work fully insured against fire and theft until delivery to the Purchaser. In the event of a loss caused by fire or theft, the Artist shall use the insurance proceeds to recommence the making of the Work.
- a. Upon completion, the Work shall be shipped F.O.B. artist's studio at the expense of the Purchaser to the following address:_____
- b. If any special installation is necessary, the Artist shall assist in said installation as follows:
- 5. TERMINATION:** This Agreement may be terminated on the following conditions:

a. The Purchaser shall have the right to terminate this Agreement if the Artist fails without cause to complete the Work within ninety (90) days of the completion date in Paragraph 3. In the event of termination pursuant to this subparagraph, the Artist shall return to the Purchaser all payments made pursuant to Paragraph 2, but shall not be liable for any additional expenses, damages, or claims of any kind based on the failure to complete the Work.

b. The Purchaser shall have the right to terminate this Agreement if, Pursuant to Paragraph 3, the illness of the Artist causes a delay of more than six (6) months in the completion date, or if events beyond the Artist's control cause a delay of more than one (1) year in the completion date, provided, however, that the Artist shall return all payments made pursuant to Paragraph 2, and shall not be liable for any additional expenses, damages, or claims of any kind based on the failure to complete the Work.

c. If Purchaser does not find the Work as it progresses fulfilling his expectations or needs and therefore wishes to terminate the Agreement, Purchaser shall immediately notify the Artist of the termination. The Artist shall thereupon be entitled to retain all payments which Artist has received or was entitled to receive pursuant to his agreement prior to such notification.

d. The Artist shall have the right to terminate this Agreement in the event the Purchaser is more than sixty (60) days late in making any payment due pursuant to Paragraph 2, provided, however, that nothing herein shall prevent the Artist bringing suit based on the Purchaser's breach of contract.

e. This Agreement shall automatically terminate on the death of the Artist, provided, however, that the Artist's estate shall retain all payments made pursuant to Paragraph 2.

f. The exercise of the right of termination under this Paragraph shall be written and set forth the grounds for termination.

6. OWNERSHIP: Title to the Work shall remain in the Artist until Artist is paid in full.

a. In the event of termination of this Agreement pursuant to Subparagraphs a, b, c, and d of Paragraph 5, the Artist shall retain all rights of ownership in the concept, design, and Work itself, including the right to complete, exhibit, and sell the Work.

b. In the event of termination of this agreement pursuant to Subparagraph e of Paragraph 5, the Purchaser shall have the right to keep copies of the preliminary design and the Work in progress for the sole purpose of completing the Work, provided, however, that the Work be completed by the following person(s), whom the Artist herein designates to complete the Work: _____ and/or _____. If the Purchaser chooses not to have the Work completed by the designated artist(s), then all copies of preliminary designs, incidental works, and the Work in progress immediately shall become the property of the Artist's estate and promptly be returned to the Artist's estate.

7. ARTIST'S RIGHTS:

a. Copyright and Right to Credit. The Artist reserves to himself all rights of reproduction and all copyrights in the Work, the preliminary design, and any incidental works made in the creation of the Work. Copyright notice in the name of the Artist shall appear on the Work, and the Artist shall also receive authorship credit in connection with the Work, in the following form: Copyright, Artist's name, All Rights Reserved, date, in such a manner and location as shall comply with the U.S. Copyright Law. The Artist agrees to give a credit substantially in the following form, in any public showing or reproduction of the Work: Original owned by _____.

b. Right to Possession. The Artist and the Purchaser agree that the Artist shall have the right to show the Work for up to sixty (60) days once every five (5) years at no expense to the Purchaser, upon written notice not later than ninety (90) days before opening of show and upon satisfactory proof of insurance. All costs incurred from door-to-door are the responsibility of the Artist.

c. Nondestruction/Alteration. The Purchaser agrees that he/she will not intentionally destroy, alter, damage, modify, or otherwise change the Work in any way whatsoever, without the Artist's written permission.

d. Repairs/Maintenance. The Purchaser shall be responsible for the proper cleaning, maintenance, and protection of the Work in its possession, if on loan or otherwise exhibited, notwithstanding anything contrary herein. The Artist shall provide the Purchaser with a Statement of Maintenance (Attachment A). All repairs and restorations made during the Artist's lifetime shall have the Artist's written permission. The Artist shall be consulted as to his/her recommendations with regard to all such repairs and restorations, and will be given the opportunity to accomplish said repairs and restorations, for a reasonable fee. If Purchaser and Artist cannot agree regarding repairs, then the Purchaser may accomplish such repairs as he/she deems necessary. In that event the Work will no longer be represented as the Work of the Artist without his/her written permission.

e. Resale of Work. If the Purchaser later sells or transfers the Work, the Purchaser shall pay to the Artist a sum equal of fifteen (15)% of the appreciated value of the Work and shall obtain from the new purchaser or transferee a binding undertaking to observe all of the provisions of this Agreement in the interest of the Artist. The Artist shall be given the new owner's name and address. For the purposes of this agreement, appreciated value shall mean the sales price of the artwork less the original purchase price as stated in this agreement.

f. Relocation of Work. The Artist shall be notified if the Work is to be relocated from the address specified in Paragraph 4. subparagraph a. The Purchaser shall notify the Artist of any proposed alteration of the site or adjoining area that would affect the intended character and appearance of the Work, and shall consult the Artist in the planning of any such alteration, for which the Artist will receive a reasonable fee. If any alteration of such Site or Areas of the Work is made without the express written approval of the Artist, the Artist may elect to enter upon the site and at the expense of the Purchaser to remove or obliterate his credit in the work, including but not limited to any signature or other emblem identifying the Artist with the Work. This paragraph shall apply to any alteration of the site, such areas of the Work, whether intentional, accidental, with or without the control of the Purchaser or otherwise.

g. Moral Right. The Purchaser will not permit any use of the Artist's name or misuse of the Work which would reflect discredit on his/her reputation as an artist or which would violate the spirit of the Work.

8. DISAGREEMENT/ARBITRATION: Any dispute herein under between the parties, not involving money claims by either party in excess of \$_____ (_____dollars), shall be resolved by resort to arbitration by a mutually agreed upon party in accordance with the standards and procedures of the American Arbitration Association.

a. Within twenty (20) days of the arbitrator's award, each party to the action shall file a notice of intent to comply with the award, or a notice of intent to file an action in the appropriate court.

b. All proceedings of the arbitration shall be public and all records and documents open to the public.

c. In the event such arbitration services are not available, all other legal remedies shall be available to all the parties.

d. If any action at law or in equity is brought to enforce or interpret the provisions of this agreement, the prevailing party shall be entitled to reasonable attorney's fees in addition to any other entitled relief.

9. WARRANTY: The Artist warrants that the design being purchased is the original product of his/her own creative efforts. The Artist warrants that unless otherwise stipulated, the Work is unique, that it is an edition of one (1), and that it has not been accepted for sale elsewhere.

10. NOTICES AND CHANGES OF ADDRESS: All notices shall be sent to the Artist at the following

address: _____ and to the Purchaser at the following

address: _____. Each party shall give written notification within sixty (60) days of any changes of address.

11. NO WAIVER: No waiver of full performance by either party shall be construed or operate as a waiver of any subsequent default of any of the terms, covenants, and conditions of this agreement.

12. NO ASSIGNMENT OR TRANSFER: Neither party hereto shall have the right to assign or transfer this agreement without the prior written consent of the other party. The Artist shall, however, retain the right to assign any payments provided for by this agreement.

13. HEIRS AND ASSIGNS: This agreement shall be binding upon the parties hereto, their heirs, successors, assigns, and personal representatives, and references to the Artist and the Purchaser shall include their heirs, successors, assigns, and personal representatives.

14. SEVERABILITY: If any part of this Agreement is held to be illegal, void, or unenforceable for any reason, such holding shall not affect the validity and enforceability of any other part.

15. ENTIRE AGREEMENT: This agreement contains all of the covenants, promises, agreements, and conditions, either oral or written, between the parties, and may not be changed or modified except in writing signed by authorized representatives of the parties hereto.

16. GOVERNING LAWS: The validity of this agreement and of any of its terms, as well as the rights and duties of the parties under this agreement, shall be governed by the laws of the State of _____.

IN WITNESS WHEREOF the parties have hereunto set their hands.

BY _____
ARTIST

BY _____
PURCHASER