

# ART SERVICE CONTRACT

DATE: 02-05-2005

Creator – \_\_\_\_\_

Marketer/Manufacture – \_\_\_\_\_

## **(ITEM “A”) Description:**

**Design** number/name/description. \_\_\_\_\_

**Category**

**Minimum projected annual units/sale of this design:** \_\_\_\_\_

This document shall be deemed as a legally binding contract between

Marketer/Manufacture:

Art Creator:

## **(ITEM “B”) Explanation:**

**Type of medium/product types:** Printed Textiles.

**Category of use:** Wholesale and “direct Retail sales” described as being sold by Marketer/Manufacture and acting as the retailer to sell this design/product direct to the public.

**Geographic area of use:**

(World /Global sales). 5% royalty in US currency.)

**Duration of use:** 3 years from the date of signing this contract.

**Third Party Licensing:** This contract is not transferable to a third party

company or person for any reason without both parties being in agreement. (If Marketer/Manufacturer cannot meet production to meet the scheduled production of purchasing contracts/ sales in a timely fashion, a modified agreement can be made with outside parties and will be documented *as sub contract work*. It shall be the duty of Marketer/Manufacturer to see to it that all contract obligations are held up by any third party production facility. This shall be in the form of a secondary contract between the two parties (herein) and the additional third party. The secondary (third party) contract shall not supersede the original contract. All third parties shall also be subject to quarterly invoice/sales/units reviews per design.

***Note on sale of Rights and sale of Original Art:***

Many buyers are surprised to discover that sale of the Original piece of art is, by law, separate from the sale or transfer of usage rights and should be handled as a separate issue, in both directions. You can buy all the right to reproduce a piece of art without buying the art, but buying the original art does not automatically transfer any reproduction rights to you.

**Ownership of Original art:** I \_\_\_\_\_ retain the full and complete copyright to the original art.

**NO ASSERTION OF RIGHTS:**

It is expressly understood and agreed that, except for licenses granted to \_\_\_\_\_ under this agreement, as between creator \_\_\_\_\_ and \_\_\_\_\_ all right, title, and interest in and to Licensed digital files vest solely and exclusively in the creator \_\_\_\_\_

**REPRODUCTION LICENSE**

**granted:**Marketer/Manufacture \_\_\_\_\_ has a license to produce and sell unlimited quantities of units or programs (groups of multiple designs sold as a set) within the three year contract.

A license to produce art on textiles \_\_\_\_\_ also grant rights to produce this art on other products with the knowledge that the royalty compensation shall be applied to the sales of any and *all* products.

The creator \_\_\_\_\_ will be informed of intent to

apply this design on any product.

Creator – \_\_\_\_\_ maintains the right to disapprove or approve the use of the art or reproduction of art on a product Creator - \_\_\_\_\_ deems inappropriate for the art. Approval must be given via signature and date (before art application/samples begins on a product).

**Exclusivity:** With these rights, I Creator – \_\_\_\_\_ agree not to sell the design /reproduction rights it to other companies for the purpose of producing it on other products during the life of the contract (for instance) a greeting card, or mouse pad or puzzle, or book cover for the duration of this contract. Creator – \_\_\_\_\_ maintains the ownership and right to use said art to promote . Creator – \_\_\_\_\_ in any media format available, such as (but not limited to) Personal portfolio/articles/website/print while said contract is in effect.

**Payment/Compensation: *Royalty*.** Payment shall be in the form of a royalty in the amount of (5%) percent of wholesale price and 5% of the retail price (if selling direct to end user i.e. retail sales).

*12 Royalty free samples per year during the contract* shall be approved for initial sales and samples. All samples over and above the initial 12 units shall be billable for Royalty's at the wholesale or retail price.

**Sample approval:**

Shall be required by Creator – \_\_\_\_\_

**Kill Fee:**

A *Kill fee* or (cancellation) – payment made when the art requested meets the satisfaction of the clients stated requirements but the client decides not to use it for reasons outside the artist control or not due to any fault of my own, This fee will be due Within 15 days of notice of cancellation of each design/contract and shall be equal to 30% of the *bare minimum fair market value* of said design, (per design) being a minimum of \$1000.00. Total due “per design” upon cancellation will be \$300.00 Any design killed will loose all rights for reproduction at any time

and no rights will be transferred. If a design is completed for production but is not active in sales as a result of Marketer/Manufacture –not actively and aggressively pursuing sales or has not made a sale (totaling or in excess of 144 units) for the first 6 months from the date of contract, the design is to be considered killed/cancelled and the kill fee shall apply.

**Payment Schedule:**

Shall be due each (90 days) or per quarter of each year for the life of the contract. A statement will accompany each quarter payment as documentation of actual units ordered and shall describe the end use and price.

A (per quarter-90 day), one time postponement of the scheduled quarterly payments can be used as a grace period, (not to extend beyond 15 days of the due date of each quarter). After this time, A 2% late fee will apply to each payment that extends beyond (each) 105 days.

**INDEMNITY:**

Client - \_\_\_\_\_ shall hold Creator – \_\_\_\_\_ harmless from and against all judgments and related cost and expenses arising out of, or concerning manufacturing and loss of retail sales.

Creator – \_\_\_\_\_ shall not hold Marketer/Manufacture in violation of copyright and will not infringe on any party.

**REMEDIES:**

All disagreements and or breach of contracts shall be remedied through a mutually approved third party mediator that may or may be appointed by a judge or an arts mediation service. All legal expenses and research cost will

be paid by each party individually. If the two parties cannot reach reconciliation, a decision must be reached via the court system and the proven infringing party will be responsible for all legal fees. All remedies shall be held in the state of Florida and in a mutually agreed county.

**CURE PROVISION:**

The infringing party will have 30 days to cure or resolve a problem before mediation or legal action can be taken.

**Note:** This is a contract for art services and shall not be considered as "Work For Hire" .