

# Benacquista Galleries New Artist Agreement

Benacquista Galleries, Inc.  
12707 High Bluff Dr., Suite 140  
San Diego, CA 92067  
(858) 481-8022  
Fax (858) 481-8566

And NEW ARTIST:

hereby enters into the following Agreement:

1 Agency; Purposes. The Artist appoints Benacquista Galleries as agent for the works of art ("the Artworks") consigned under this Agreement, for the purposes of exhibition and sale. Benacquista shall not permit the Artworks to be used for any other purposes without the written consent of the Artist. This agreement applies only to works consigned under this Agreement and does not make Benacquista a general agent for any other works.

2 Consignment. The Artist hereby consigns to Benacquista, and Benacquista accepts on consignment, those Artworks listed on the attached Inventory Sheet which is 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 works of art. All Inventory Sheets shall be signed by Artist and Benacquista. If the Artist sells any of the consigned work through their own personal efforts, the Artist must notify Benacquista as soon as possible to maintain current inventory availability.

3 Authority of Accepted Artist's Works. Works of art may be accepted for consignment only by or by any person designated by either of them in writing as authorized to accept works of art hereunder. Benacquista may reject artworks at the Owners discretion.

4 Warranty. The Artist hereby warrants that he/she created and possesses unencumbered title to the Artworks, and that their descriptions are true and accurate.

5 Duration of Consignment. The Artist and Benacquista agree that the initial term of

consignment for the Artworks is to be 12 months, and that the Artist does not intend to request cancellation of this agreement before the end of this term. Thereafter, consignment shall continue until the Artist requests cancellation of the agreement and requests the return of any or all of the Artworks or Benacquista requests that the Artist take back any or all of the Artworks with which request the other party shall comply within 30 days.

6 Transportation Responsibilities. Packing and shipping charges, insurance costs, other handling expenses, and risk of loss or damage incurred in the delivery of Artworks from the Artist to Benacquista are the responsibility of the Artist. Packing and shipping charges, insurance costs, other handling expenses, and risk of loss or damage incurred in the delivery of Artworks from Benacquista to the Artist, shall be the responsibility of Benacquista.

7 Responsibility for Loss or Damage, Insurance Coverage. Benacquista shall be responsible for the safekeeping of all consigned Artworks while they are in its custody. Benacquista shall be strictly liable to the Artist for their loss or damage (except for damage resulting from flaws inherent in the Artworks), to the full amount the Artist would have received from Benacquista if the Artworks had been sold. Benacquista shall provide the Artist with all relevant information about its insurance coverage for the Artworks if the Artist requests this information.

8 Fiduciary Responsibilities. Title to each of the Artworks remains in the Artist until the Artist has been paid the full amount owing him or her for the Artworks; title then passes directly to the purchaser. All proceeds from the sale of the Artworks shall be held in trust for the Artist. Benacquista shall pay all amounts due the Artist before any proceeds of sales can be made available to creditors of Benacquista.

9 Removal from Gallery. Benacquista shall not lend out, remove from the premises or website, or sell on approval any of the Artworks, without first obtaining written permission from the Artist.

10 Pricing; Gallery's Commission; Terms of Payment. Benacquista shall sell the Artworks only at the Retail Price specified on the Inventory Sheet. Benacquista and the Artist agree that the Benacquista's commission is to be 20 percent of the Retail Price of the Artwork. Any change in the Retail Price, or in Benacquista's commission, must be agreed to in advance by the Artist and Benacquista. Payment to the Artist shall be made by Benacquista on the 15th of every month, and will include all commissions due for any/all artworks sold. Benacquista assumes full risk for the failure to pay on the part of any purchaser to whom it has sold an Artwork.

11. Framing. If Benacquista will be framing the Artwork, Benacquista and the Artist agree that Benacquista's expense will be factored into the retail price

and full compensation for framing will be given to Benacquista upon the sale of Artwork. Should the Artwork be returned to the Artist as outlined in this agreement, the Artist and Benacquista are equally responsible for the wholesale cost of the framing expense.

11 Promotion. Benacquista shall use its best efforts to promote the sale of the

Artworks. Benacquista agrees to provide adequate display of the Artworks, and to undertake other promotional activities on the Artist's behalf. Benacquista shall identify clearly all Artworks with the Artist's name, and the Artist's name shall be included on the bill of sale of each of the Artworks. Benacquista and the Artist shall agree in advance on the division of artistic control and of financial responsibility for expenses incurred in Benacquista's exhibitions and other promotional activities undertaken on the Artist's behalf.

12 **Reproduction.** The Artist reserves all rights to the reproduction of the Artworks except as noted in writing to the contrary. Benacquista will not permit any of the Artworks to be copied, photographed or reproduced without the written permission of the Artist. In every instance of such use, the Artist shall be acknowledged as the creator and copyright owner of the Artwork. Benacquista shall include on each bill of sale of any Artwork the following legend: "All rights to reproduction of the work(s) of art identified herein are retained by the Artist: ""

13 **Accounting.** A statement of accounts for all sales of the Artworks shall be furnished by Benacquista to the Artist on the 15th of each month, with the payment of all commissions due. The Artist shall have the right to inventory his or her Artworks in the gallery and to inspect any books and records pertaining to sales of the Artworks.

14 **Termination of Agreement.** Notwithstanding any other provision of this Agreement, this Agreement may be terminated at any time by either Benacquista or the Artist, by giving a sixty (60) day written notification of termination from either party to the other. In the event of the Artist's death, the estate of the Artist shall have the right to terminate the Agreement. Within thirty days of the notification of termination, all accounts shall be settled and all unsold Artworks shall be returned by Benacquista.

15 **Procedures for Modification.** Amendments to this Agreement must be signed by both Artist and Benacquista and attached to this Agreement. Both parties must initial any deletions made on this form and any additional provisions written onto it.

19. **Miscellany.** This Agreement represents the entire agreement between the Artist and Benacquista. 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. A waiver of any breach of any of the provisions of this Agreement shall not be construed as a continuing waiver of

other breaches of the same provision or other provisions hereof. This Agreement shall not be assigned, nor shall it inure to the benefit of the successors of Benacquista, whether by operation of law or otherwise, without the prior written consent of the Artist. In any proceeding to enforce any part of this contract, the aggrieved party shall be entitled to reasonable attorney's fees in addition to any available remedy.

2 **Choice of Law.** This Agreement shall be governed by the law of the State of California.

Sincerely,

\_\_\_\_\_(Artist)  
Sincerely,

\_\_\_\_\_(Gallery)

### Length of Contract

From \_\_\_\_\_ To \_\_\_\_\_ Consented  
and agreed to: Artist

Date \_\_\_\_\_

Consented and agreed to: Benacquista Galleries, Inc.

Date \_\_\_\_\_

### Consignment Agreement Artworks List

Title Medium Dimensions Retail Price Gallery Commission

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9

10 Artists

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

Gallery Owner \_\_\_\_\_ Date \_\_\_\_\_