

CONSIGNOR NAME: _____

CONSIGNOR #: _____

HARVEY CLARS ESTATE AUCTION GALLERY

5644 Telegraph Avenue, Oakland, CA 94609

Phone: (510) 428-0100 o Fax: (510) 658-9917

CONSIGNMENT AGREEMENT

This document is intended to be a legally binding contract between HARVEY CLARS ESTATE AUCTION GALLERY ("CLARS") and customer /consignor ("you") and contains all of the terms, conditions and provisions of the agreement between the parties. A complete inventory of the personal property which you have consigned to Clars for sale at auction is set forth on the separate written schedule attached to this agreement. You have requested that Clars sell your personal property at public auction and Clars has agreed to do so upon the following terms, provisions and conditions:

1. COMPENSATION: For Clars' services in selling your personal property at auction Clars will be entitled to retain from the proceeds as its compensation an amount based upon the final bid price of each item sold and calculated as follows:

- (a) Ten percent (10%) of individual auction items selling at \$7001 and above
- (b) Fifteen percent (15%) of individual auction items selling at \$3501 thru \$7000
- (c) Twenty percent (20%) of individual auction items selling at \$1001 thru \$3500
- (d) Twenty-five percent (25%) of individual auction items selling at \$101 thru \$1000
- (e) Thirty-nine percent (39%) of individual auction items selling at any amount thru \$100
- (f) Insurance: 1.5% of the final bid price of each item sold or the appraised (or reserved) value of any unsold items that are returned to the consignor

This commission includes all normal expenses of sale except for transportation and packing charges as set forth in paragraph 5 below. In addition, a premium of nineteen percent of the purchase price up to \$70,000 and ten percent of any amount over \$70,000 (plus an additional three percent for internet buyers) of each individual auction lot shall be added to the purchase price and paid by the buyer as a part of the purchase price. This sum shall also be collected and retained by Clars as additional compensation to Clars. You are responsible for any artist royalties that may arise. Clars will be entitled to full lost compensation for any item(s) consigned by you and then returned to you prior to the auction.

2. PAYMENT TO CONSIGNOR: Payment to consignor for items sold will be made within thirty (30) working days, after items are sold. In the event that buyer fails to remit payment for the consigned property, Clars shall attempt to collect the sums due, at Clars' discretion. If Clars is unsuccessful in collecting the full amount due, Clars reserves the right to rescind the sale and re-offer the consigned property at a subsequent sale.

3. SERVICES RENDERED: Clars shall undertake to sell your personal property at public auction to the highest competitive bidder Clars reserves the right, in its absolute discretion, to determine the method and manner of lotting your personal property, to accept or reject any bid, to remove any or all of your personal property from any particular sale and schedule it for some subsequent sale, to determine whether and in what manner to advertise your personal property or the sale at which it shall be sold and any such sale shall be without reserve or limits. Clars will bear the cost of any advertising of your personal property. The CONDITIONS OF SALE printed in Clars auction catalogues constitute Clars' agreement with the buyer at auction. You authorize Clars to accept the return, and rescind the sale, of any property at any time if Clars, in its judgment, determines that selling of the property may subject Clars and/or you to any liability, including any liability arising from claims relating to any attribution or identification of authorship, period, culture, source of origin, physical condition, size, quality, rarity, importance, authenticity (including counterfeit), or other information included in any description of the property. The estimates will be lowered on items that must be reoffered in a subsequent sale.

4. SALE: At present Clars anticipates that your personal property will be sold at a sale(s) presently scheduled for _____. This is an estimate only and may be reset at the sole discretion of Clars. Clars is authorized to sell any property post-auction, that does not sell at that auction, so long as the sale price is approximately the same as the highest price sought to be obtained by Clars at auction.

5. PACKING AND TRANSPORTATION: Clars will undertake the packing and transportation of the personal property at your expense. The charge for these services is \$_____. Clars' charges for packing and transportation will be deducted from the proceeds of the sale.

6. LEGAL STATUS AND OWNERSHIP: Unless you otherwise indicate, by signing this agreement you are hereby representing that you are the owner of the personal property described on the attached schedule and have the right and authority to authorize us to sell the same. If you are acting as agent for some other party who does not sign this agreement, please indicate you are an agent and the name of the owner when signing this agreement. By signing as an agent, you are representing to Clars that you have the authority and power to authorize Clars to sell the same for the principal and that your principal shall be, along with you, jointly and severally liable for your obligations and liabilities hereunder. In either case, you agree to defend, indemnify and hold Clars harmless from any and all costs, expenses, liabilities and damages, including reasonable attorney's fees, that Clars may suffer or incur as a result of any claims made that you did not have authority to sign this agreement and/or authorize Clars to sell the personal property.

7. SECURITY INTERESTS: You hereby grant Clars a security interest in the personal property to secure payment of any sums, which may become due to Clars under the terms of this agreement. Clars shall have all of the rights of a secured party under the laws of the State of California.

8. OWNERSHIP OF SELLER: HARVEY CLARS ESTATE AUCTION GALLERY is a business name used by C.R. MARTIN AUCTIONEERS, INC., a California corporation, which owns and operates the business. C. R. MARTIN AUCTIONEERS, INC. dba HARVEY CLARS ESTATE AUCTION GALLERY is licensed and regulated by the California Secretary of State. There is a bond on file with the Secretary of State.

9. LIMITATION OF DAMAGES: Your payment of the insurance fee makes Clars responsible for loss by theft, fire or other means (subject to the usual form of exclusions including but not limited to earthquake, flood, and acts of war). In the event that your personal property is damaged or destroyed, your sole remedy with respect to such damage or loss shall be either the repair or replacement of the damaged or lost property or, at Clars' choice, payment to you of the fair market value of the damaged or lost property at the time of damage or loss.

10. ENTIRE CONTRACT: This document together with any schedule or schedules attached to it contains the entire agreement between us relating to our mutual rights and obligations. Any oral representations or modifications concerning our agreement or this document shall be of no force or effect except as may subsequently be reduced to writing.

11. GOVERNING LAW: The validity of this agreement and of any of its terms or provisions, as well as the rights and obligations of the parties under this agreement shall be interpreted pursuant to and in accordance with the laws of the State of California.

12. ARBITRATION OF DISPUTES: The parties agree that any dispute or claim in law or equity, including but not limited to, any cross-claim asserted by any party to this agreement, that arises out of the subject of this agreement in which the sum in the dispute exceeds \$5,000 shall be decided by neutral, binding arbitration in accordance with the rules of the American Arbitration Association pertaining to arbitration of commercial disputes. The arbitration fees and costs shall be equally divided among the parties, but the prevailing party shall be entitled to recover its actual attorney's fees. Judgment upon the award of the arbitrator may be entered in any court having jurisdiction.

DATE: _____

Customer (Consignor)

DATE: _____

Harvey Clars Estate Auction Gallery