



## Commission/Consignment Contract

This COMMISSION/CONSIGNMENT CONTRACT is made and entered into between Lotus of the Moon, LLC (Shop/Agent), and the Supplier/Teacher/Other defined below (Supplier/Contractor).

Name:

Address:

Phone:

Fax:

Email:

Washington State UBI No./Social Security No:

Federal ID No.:

### ARRANGEMENT AGREED UPON (INITIAL):

\_\_\_\_\_ Supplier agrees to 30% commission to shop for sale of products and/or services. Shop will provide all credit card processing and advertise supplier's products/services with shop's other relevant advertisements.

\_\_\_\_\_ Supplier agrees to pay booth space of \$100 per month to shop for sale of products and/or services. Shop will provide all credit card processing and advertise supplier's products with shop's other relevant advertisements.

WHEREAS, the purpose of this contract is for the commission and/or consignment of artwork/product and/or services related to the mission of Lotus of the Moon to be displayed and sold (regarding product) and/or hosted/payments processed (regarding services) by the SHOP on behalf of the Supplier for the purpose of mutual benefit.

NOW THEREFORE, in consideration of the terms and conditions contained herein, or attached and incorporated and made a part hereof, the AGENCY and CONTRACTOR mutually agree as follows:

1. **Scope of Agency.** The SUPPLIER appoints the SHOP as agent for the works of product/service consigned under this agreement, for the purposes of exhibition and sale. The SHOP shall not permit the service (s)/product(s) to be used for any other purposes without the written consent of the SUPPLIER. The SHOP shall serve as agent for the SUPPLIER in consideration for a percentage of the profits derived from such exhibition and sale or membership or labor trade. This agency shall cover only product/service submitted by the Supplier while this agreement is in force.

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2. **Consignment of Inventory.** The SUPPLIER hereby consigns to the SHOP and the SHOP accepts on consignment the Artworks/products listed on the attached inventory sheet which is hereby incorporated by reference. Additional inventory sheets may be incorporated into this contract by agreement of both parties to the consignment of other works of art in a written amendment to this contract. All inventory sheets shall be signed by the SUPPLIER and a designated representative of the SHOP.
3. **Governing Law.** The SUPPLIER hereby warrants that he/she created and possesses unencumbered rights to the Artworks/or has reseller permit for unoriginal product sold in shop, their descriptions are true and accurate, and that the Artworks/products comply with all State and Federal Laws, and all applicable copyright laws.
4. **Location.** The SHOP is located at 1386 Jadwin Ave, Richland, WA. 99354. Hours of operation are within Lotus of the Moon hours. Product will not be sold offsite by Shop without express written consent of Supplier.
5. **Pricing and Terms of Payment.** The SUPPLIER, as original owner, must establish a price for each service/product within fair market value. The SHOP shall sell the products/services only at the retail price specified on the List of Inventory or as discussed with Supplier. The SHOP and SUPPLIER agree that the SHOP's commission is to be 30% percent of the retail price of the product/service if selling on consignment, or \$100 per month if choosing the booth space rental option. Both parties must agree in writing to any change to the retail price or the SHOP's commission in advance of the change.
6. **Discounts.** In the case that the Lotus of the Moon offers a discount on a sale, the discount shall be deducted from the SHOP's commission. The SUPPLIER will be given the full SUPPLIER's share of the retail price as agreed.
7. **Payment.** The SHOP shall pay the SUPPLIER all proceeds due to the SUPPLIER within 30 days of the last day of the month in which the piece was sold. If proceeds total less than \$25, the SHOP may roll over proceeds due to the next month.
8. **Loss or Damage.** The SHOP shall not be liable for any for loss or damage to any consigned product/service. This liability is limited to the date of delivery to the SHOP until the date the product/service is returned to the SUPPLIER or delivered to a purchaser.
9. **Insurance.** The SUPPLIER shall maintain insurance for the consignment product/service. In the event that an insurance claim is made, the SUPPLIER shall pay all deductibles. The SHOP will not maintain any insurance for product/service.
10. **Promotion.** The SHOP shall use its best efforts to promote, display and sell products/services. The SHOP shall clearly identify the SUPPLIER's name with all product/service. The SHOP reserves the right to rotate product/service based on the needs of the space and space available.
11. **Reproduction.** The SUPPLIER reserves all copyrights to the production of products except as noted in writing to the contrary. The SHOP may arrange to have the products photographed to publicize and promote the products. In every such use, the SUPPLIER shall be acknowledged as the creator and owner of the products.
12. **Period of Performance.** The period of performance under this contract will be from \_\_\_\_\_ through \_\_\_\_\_.
13. **Rights and Obligations.** All rights and obligations of the parties to this contract shall be subject to and governed by the Special Terms and Conditions contained in the text of this contract instrument, the General Terms and Conditions attached hereto as Exhibit B, and Inventory Sheet attached hereto as Exhibit A, each incorporated by reference herein.

THIS AGREEMENT, consisting of four (4) pages, and two exhibits, is executed by the persons signing below who warrant that they have the authority to execute the agreement.

**AGENCY**

Lotus of the Moon, LLC.  
1386 Jadwin Ave.  
Richland, WA 99354  
(509) 940-7460

**CONTRACTOR**

Signature \_\_\_\_\_

Signature \_\_\_\_\_

Title \_\_\_\_\_

Title \_\_\_\_\_

Date \_\_\_\_\_

Date \_\_\_\_\_

# Exhibit A

## INVENTORY SHEET

1	Artwork Title	Description	Quantity	Cost
2				
3				
4				
5				
6				
7				
8				
9				
10				
11				
12				
13				
14				
15				
16				
17				
18				
19				
20				
21				
22				
23				
24				
25				
26				
27				
28				
29				
30				
		Totals		

**LOTUS OF THE MOON, LLC**  
 1386 Jadwin Ave  
 Richland, WA 99354  
 (509) 940-7460

**SUPPLIER NAME & Contact Information**

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

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

**EXHIBIT B**

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## GENERAL TERMS AND CONDITIONS

### DEFINITIONS

As used throughout this contract, the following terms shall have the meaning set forth below:

A. "LOTM" shall mean the Lotus of the Moon. LLC. of the State of Washington, any division, section, office, unit or other entity of the LOTM, or any of the officers or other officials lawfully representing the LOTM.

B. "ADMINISTRATOR" shall mean the administrator, and/or the delegate authorized in writing to act on the administrator's behalf.

C. "SUPPLIER" shall mean that firm, provider, organization, individual or other entity providing product/service under this contract, and shall include all employees of the SUPPLIER.

### ADVANCE PAYMENTS PROHIBITED

No payments in advance of or in anticipation of goods or services to be provided under this contract shall be made by the LOTM.

### AMENDMENTS

This contract may be amended by mutual agreement of the parties. Such amendments shall not be binding unless they are in writing and signed by personnel authorized to bind each of the parties.

### AMERICANS WITH DISABILITIES ACT (ADA) OF 1990, PUBLIC LAW 101-336, also referred to as the "ADA" 28 CFR Part 35

The SUPPLIER must comply with the ADA, which provides comprehensive civil rights protection to individuals with disabilities in the areas of employment, public accommodations, state and local government services, and telecommunications.

### ASSIGNMENT

Neither this contract, nor any claim arising under this contract, shall be transferred or assigned by the SUPPLIER without prior written consent of the LOTM.

### ATTORNEYS' FEES

In the event of litigation or other action brought to enforce contract terms, each party agrees to bear its own attorney fees and costs.

### CONFIDENTIALITY/SAFEGUARDING OF INFORMATION

The SUPPLIER shall not use or disclose any information concerning the LOTM, or information that may be classified as confidential, for any purpose not directly connected with the administration of this contract, except with prior written consent of the LOTM, or as may be required by law.

### DISALLOWED COSTS

The SUPPLIER is responsible for any audit exceptions or disallowed costs incurred by its own organization.

### DISPUTES

Except as otherwise provided in this contract, when a dispute arises between the parties and it cannot be resolved by direct negotiation, either party may request a dispute hearing with the ADMINISTRATOR.

1. The request for a dispute hearing must:

☐☐ Be in writing;

☐☐ State the disputed issue(s);

☐☐ State the relative positions of the parties;

☐☐ State the SUPPLIER'S name, address, and contract number; and

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Be mailed to the ADMINISTRATOR and the other party's (respondent's) contract manager within 3 working calendar days after the parties agree that they cannot resolve the dispute.

2. The respondent shall send a written answer to the requester's statement to both the ADMINISTRATOR and the requester within five (5) working calendar days.
3. The ADMINISTRATOR shall review the written statements and reply in writing to both parties within ten (10) working days. The ADMINISTRATOR may extend this period if necessary by notifying the parties.
4. The parties agree that this dispute process shall precede any action in a judicial or quasi-judicial tribunal.

Nothing in this contract shall be construed to limit the parties' choice of a mutually acceptable alternate dispute resolution method in addition to the dispute resolution procedure outlined above.

#### **GOVERNING LAW**

This contract shall be construed and interpreted in accordance with the laws of the State of Washington, and the venue of any action brought hereunder shall be in the Superior Court for Benton County.

#### **INDEPENDENT CAPACITY OF THE SUPPLIER**

The parties intend that an independent SUPPLIER relationship will be created by this contract. The SUPPLIER and his or her employees or agents performing under this contract are not employees or agents of the LOTM. The SUPPLIER will not hold himself/herself out as or claim to be an officer or employee of the LOTM by reason hereof, nor will the SUPPLIER make any claim of right, privilege or benefit that would accrue to such employee under law. Conduct and control of the work will be solely with the SUPPLIER.

#### **INDUSTRIAL INSURANCE COVERAGE**

The SUPPLIER shall comply with the provisions of Title 51 RCW, Industrial Insurance. If the SUPPLIER fails to provide industrial insurance coverage or fails to pay premiums or penalties on behalf of its employees, as may be required by law, LOTM may collect from the SUPPLIER the full amount payable to the Industrial Insurance accident fund. The LOTM may deduct the amount owed by the SUPPLIER to the accident fund from the amount payable to the SUPPLIER by the LOTM under this contract, and transmit the deducted amount to the Department of Labor and Industries, (L&I) Division of Insurance Services. This provision does not waive any of L&I's rights to collect from the SUPPLIER.

#### **LICENSING, ACCREDITATION AND REGISTRATION**

The SUPPLIER shall comply with all applicable local, state, and federal licensing, accreditation and registration requirements/standards, necessary for the performance of this contract.

#### **LIMITATION OF AUTHORITY**

Only the ADMINISTRATOR or ADMINISTRATOR's delegate by writing (delegation to be made prior to action) shall have the express, implied, or apparent authority to alter, amend, modify, or waive any clause or condition of this contract. Furthermore, any alteration, amendment, modification, or waiver or any clause or condition of this contract is not effective or binding unless made in writing and signed by the ADMINISTRATOR.

#### **NONCOMPLIANCE WITH NONDISCRIMINATION LAWS**

In the event of the SUPPLIER'S non-compliance or refusal to comply with any nondiscrimination law, regulation, or policy, this contract may be rescinded, canceled or terminated in whole or in part, and the SUPPLIER may be declared ineligible for further contracts with the LOTM. The SUPPLIER shall, however, be given a reasonable time in which to cure this noncompliance. Any dispute may be resolved in accordance with the "Disputes" procedure set forth herein.

#### **NONDISCRIMINATION**

During the performance of this contract, the SUPPLIER shall comply with all federal and state nondiscrimination laws, regulations and policies.

#### **PUBLICITY**

The SUPPLIER agrees to submit to the LOTM all advertising and publicity matters relating to this contract wherein the LOTM's name is mentioned or language used from which the connection of the LOTM's name may, in the LOTM's

judgment, be inferred or implied. The SUPPLIER agrees not to publish or use such advertising and publicity matters without the prior written consent of the LOTM.

#### **RECORDS MAINTENANCE**

The SUPPLIER shall maintain books, records, documents, data and other evidence relating to this contract and performance of the services described herein, including but not limited to accounting procedures and practices that sufficiently and properly reflect all direct and indirect costs of any nature expended in the performance of this contract.

SUPPLIER shall retain such records for a period of six years following the date of final payment. At no additional cost, these records, including materials generated under the contract, shall be subject at all reasonable times to inspection, review or audit by the LOTM, personnel duly authorized by the LOTM, the Office of the State Auditor, and federal and state officials so authorized by law, regulation or agreement.

If any litigation, claim or audit is started before the expiration of the six (6) year period, the records shall be retained until all litigation, claims, or audit findings involving the records have been resolved.

#### **REGISTRATION WITH DEPARTMENT OF REVENUE**

The SUPPLIER shall complete registration with the Washington State Department of Revenue and be responsible for payment of all taxes due on payments made under this contract.

#### **SAVINGS**

In the event funding from state, federal, or other sources is withdrawn, reduced, or limited in any way after the effective date of this contract and prior to normal completion, the LOTM may terminate or suspend the contract under the "Termination for Convenience" clause, without the ten-day notice requirement, subject to renegotiation at the LOTM's discretion under those new funding limitations and conditions.

#### **SEVERABILITY**

The provisions of this contract are intended to be severable. If any term or provision is illegal or invalid for any reason whatsoever, such illegality or invalidity shall not affect the validity of the remainder of the contract.

#### **SITE SECURITY**

While on LOTM premises, SUPPLIER, its agents and employees shall conform in all respects with physical, fire or other security policies or regulations.

#### **SUBCONTRACTING**

The SUPPLIER shall not enter into subcontracts for any of the artwork contemplated under this contract without obtaining prior written approval of the LOTM. In no event shall the existence of the subcontract operate to release or reduce the liability of the SUPPLIER to the LOTM for any breach in the performance of the SUPPLIER's duties. This clause does not include contracts of employment between the SUPPLIER and personnel assigned to work under this contract.

Additionally, the SUPPLIER is responsible for ensuring that all terms, conditions, assurances and certifications set forth in this agreement are carried forward to any subcontracts.

#### **TAXES**

All payments accrued because of payroll taxes, unemployment contributions, any other taxes, insurance or other expenses for the SUPPLIER or its staff shall be the sole responsibility of the SUPPLIER.

#### **TERMINATION FOR CAUSE**

In the event the LOTM determines the SUPPLIER has failed to comply with the conditions of this contract in a timely manner, the LOTM has the right to suspend or terminate this contract. Before suspending or terminating the contract, the LOTM shall notify the SUPPLIER in writing of the need to take corrective action. If corrective action is not taken within 30 calendar days, the contract may be terminated or suspended.

In the event of termination or suspension, the SUPPLIER shall be liable for damages as authorized by law including, but not limited to, any cost difference between the original contract and the replacement or cover contract and all

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administrative costs directly related to the replacement contract, e.g., cost of the competitive bidding, mailing, advertising and staff time.

LOTM reserves the right to suspend all or part of the contract, withhold further payments, or prohibit the SUPPLIER from incurring additional obligations of funds during investigation of the alleged compliance breach and pending corrective action by the SUPPLIER or a decision by the LOTM to terminate the contract. A termination shall be deemed a "Termination for Convenience" if it is determined that the

SUPPLIER: (1) was not in default; or (2) failure to perform was outside of his or her control, fault or negligence.

The rights and remedies of the LOTM provided in this contract are not exclusive and are, in addition to any other rights and remedies, provided by law.

#### **TERMINATION FOR CONVENIENCE**

Except as otherwise provided in this contract, the LOTM may, by ten (10) calendar days written notice, beginning on the second day after the mailing, terminate this contract, in whole or in part. If this contract is so terminated, the LOTM shall be liable only for payment required under the terms of this contract for services rendered or goods delivered prior to the effective date of termination.

#### **TERMINATION PROCEDURES**

Upon termination of this contract, the LOTM, in addition to any other rights provided in this contract, may require the SUPPLIER to collect any artwork provided for the performance of such part of this contract as has been terminated and settle all outstanding liabilities and all claims arising out of such termination of commissions. The LOTM shall pay to the SUPPLIER the agreed upon price for any sold artwork. The LOTM may withhold from any amounts due the SUPPLIER such sum as the ADMINISTRATOR determines to be necessary to protect the LOTM against potential loss or liability. The rights and remedies of the LOTM provided in this section shall not be exclusive and are in addition to any other rights and remedies provided by law or under this contract.

#### **WAIVER**

Waiver of any default or breach shall not be deemed a waiver of any subsequent default or breach. Any waiver shall not be construed to be a modification of the terms of this contract unless stated to be such in writing and signed by authorized representative of the LOTM.