

UMBRELLA CONSIGNMENT AGREEMENT

ARTWORK LOANS (INCOMING) AND SALES ON CONSIGNMENT

This agreement outlines the responsibilities of the borrower Umbrella Studio Contemporary Arts / Umbrella Studio Association Inc (ABN 93 273 044 606) of 408 Flinders Street, Townsville QLD 4810 | office@umbrella.org.au | 07 4772 7109 (henceforth referred to as 'Umbrella' or the 'gallery') and the artist. Where Umbrella exhibits artwork or items outlined within, the work will be loaned (if not for sale) or held on consignment on behalf of the artist. Both parties must agree to the terms outlined under CONSIGNMENT TERMS (5.0) and execute the agreement.

1.0 ARTIST DETAILS

First Name _____ Last Name _____

1.1 Personal Information

Please tick, or complete your personal information details below:

I have previously completed an earlier iteration of this agreement; my details are already on file and still current.

Street Address _____

City / Suburb _____ State _____ Postcode _____

Email _____ Home phone _____

Mobile phone number _____ Website _____

ABN if applicable _____ GST registered? _____

1.2 Payment Details

If my consigned works sell, Umbrella will pay to the following bank account:

I have previously provided bank details; they are already on file and still current.

Name of Bank _____

Name of Account _____

BSB _____

Account Number _____

2.0 CONSIGNMENT OVERVIEW

2.1 Consignment Project

The works on consignment will be held for:

A gallery exhibition

2.2 Consignment Location

The works on consignment will be held at:

Umbrella Studio Contemporary Arts, 408 Flinders St, Townsville 4810

Other venue: _____

2.3 Consignment Period

The works will be held for the period commencing _____ (date) and continuing until:

The project end date: _____

An as yet undetermined date (or held until otherwise requested for return by Umbrella or the artist)

Notes

3.0 SCHEDULE OF WORKS

ARTIST TO COMPLETE

QTY	Item Title and / or description of the artwork or item	Medium/s	Dimensions	Customer Retail Price includes 40% commission

UMBRELLA TO COMPLETE

Umbrella's commission (40%)	Item SKU	Photo reference or label	Returned to artist To be dated & initialed	Any extra notes

This schedule can be added if more space is needed by attaching an additional sheet/s, also to be signed and dated by both parties.

4.0 EXECUTED AS AN AGREEMENT

The artist confirms that the items / artworks listed in the schedule have been delivered to Umbrella. Both parties confirm having read and understood the outlined terms and conditions under the APPENDIX – CONSIGNMENT TERMS (5.0), that the details listed are true and correct, and that they agree to the terms outlined. The gallery acknowledges receipt of all of the items / artworks listed in the schedule.

Artist Name _____
 Artist Signature _____
 Date _____

Staff Name _____
 Staff Signature _____
 Date _____



Umbrella Studio Contemporary Arts
 408 Flinders St, Townsville QLD 4810 | Ph/Fx (07)4772 7109
 office@umbrella.org.au | www.umbrella.org.au

5.0 CONSIGNMENT TERMS

See each consignment agreement (shop / exhibition / external exhibition) for the relevant consignment terms.

5.2.0 EXHIBITION CONSIGNMENT TERMS

This section outlines the terms and conditions for consignments held in Umbrella's in-house gallery and exhibition spaces, including but not limited to Space 1, Space 2, Space 3 / Office Space and Spaces upstairs / downstairs (e.g. the 'vault' space). See each consignment agreement (shop (5.1) / exhibition (5.2) / external exhibition (5.3)) for the relevant consignment terms.

5.2.1 Artist responsibilities

The artist must:

- provide the works listed in the schedule (4.0) to Umbrella for sale or loan (as the artist's agent);
- where feasible, attach a photograph of the works; and
- deliver the works to the gallery at 408 Flinders St, Townsville by the period commencing date (2.3).
- adhere to all additional requirements, terms and conditions outlined in the provided *Exhibition Handbook* (including delivering works and helping Umbrella staff to install the work, or negotiate with Umbrella in advance if not possible) and adhere to other terms below.
- be a financial member of Umbrella for the duration of the exhibition. This includes individual artists exhibiting in group exhibitions.
- must provide detailed artwork information digitally (i.e. on Excel spreadsheet provided) to Umbrella prior to installation for creating labels or a roomsheet.
- adhere to other responsibilities as listed below.

5.2.2 Gallery responsibilities

The gallery:

- must provide a signed copy of the schedule to the artist as a receipt on delivery of the works to the gallery;
- must offer each work for sale at the applicable retail price stated in the schedule (*Retail Price*);
- must not discount a work without the artist's prior written consent. That consent must specify that the work may be discounted and the permitted discount (*Discounted Price*) and may be via email or as an initialled note on the schedule;
- must employ its best efforts to sell each work that is for sale within the consignment period (2.3) for the retail price; and return any works to the artist that have not been sold by the end of the consignment period.
- is responsible for displaying the works and must ensure that these activities are carried out by suitably qualified personnel.
- will provide installation and demount assistance wherever possible – with a priority given to artists in the main (larger) exhibition spaces
- will provide basic hanging equipment
- must not frame or remount the works unless the artist has made a corresponding request; or has given the artist's prior written consent.
- must handle each work with special care to prevent damage, deterioration that is not characteristic of the work; and must ensure the safe protection of the work at all times, including but not limited to protection from:
 - hazards of fire, flood, theft, dirt, food, drinks, smoking; or
 - handling by unauthorised or inexperienced personnel, including but not limited to the public.
- must adhere to all additional requirements, terms and conditions outlined in the provided *Exhibition Handbook*

- must ensure that every exhibition is properly supervised at all times when open to the public and store and install the works in a place that is equipped with adequate fire detection, protection and security monitoring systems; with the exception of exhibitions held downstairs (e.g. in the 'vault' space) or with approval from the artists.

- must adhere to other responsibilities as listed below.

If the artist requests from or consents to the gallery framing or remounting a work, the gallery must consult with the artist as to the materials and techniques to be used and must ensure that the work is not damaged or altered by this process. The gallery must not charge the artist for framing or remounting unless the gallery has obtained the artist's prior written consent to the charge.

5.2.3 Consignment period

The consignment period is the period listed at 2.3 from which the works are delivered to Umbrella (under clause 2.3) and ending on the date agreed to in writing between the artist and the gallery as per the signed letter of agreement. Umbrella may at any time, acting reasonably and upon giving notice to the artist, cancel the exhibition or shorten the length of the exhibition. Umbrella also has the right to reschedule exhibition dates and times in consultation with the artist. The artist must notify the gallery of any changes to the schedule.

5.2.4 Umbrella's commission and costs

Umbrella charges a commission of 40% of the retail price of each work / item sold.

The gallery acknowledges that the commission covers some of the costs incurred by the gallery under this agreement, excepting those noted in the handbook or unless the artist gives prior written consent to accept responsibility for payment of any additional costs which may arise.

The artist must provide hanging equipment for works that cannot be hung with the gallery's usual hanging system/s. Such specialised equipment must be hired or purchased by the artist.

If the exhibitor is not available to demount the exhibition, a fee applies as per the *Exhibition Handbook*.

5.2.5 Payment to the artist

- The gallery must pay the artist the price paid for each work sold, less the gallery's commission, following sale of the work.

- The gallery must make any payment within 30 calendar days after the end of the month of the exhibition by bank deposit or any other method agreed by the artist in writing.

- The artist must provide current bank details to the gallery for deposits and any changes to business information such as address, phone number, ABN and / or GST registration status of the artist.

The gallery will handle all administration and provide the artist with a detailed sales list at the close of the exhibition.

Artworks that have been exhibited at Umbrella which are sold within 12 months of exhibition are also subject to a 40% commission to Umbrella on the retail price. This encourages Umbrella to promote the artist's work further, to potentially propose them into collections, and helps Umbrella recover some costs of marketing. This is not applicable if the same work is being shown in another gallery.

5.2.6 Goods and Services Tax

- The parties agree that all amounts payable under this agreement are inclusive or exclusive of Goods and Services Tax (GST) based on the artist's GST status. Umbrella's commission includes GST. If a party is liable to pay GST in respect of any good or service supplied under this agreement, that party will invoice the other party for the GST amount payable for the good or service and will ensure that the invoice is a GST compliant invoice.

- The party who receives the GST compliant invoice must pay the amount of GST invoiced at the same time as the amount payable under this agreement.

5.2.7 Transport of the Works

The artist will arrange and pay for transport of the works to and from the gallery and is responsible for the associated packing and transit insurance. The gallery will, at the purchaser's cost, arrange for repacking, transport for works to be delivered to purchasers.

5.2.8 Title

The artist retains all rights of ownership of each work (unless on loan to the artist for the exhibition) until the retail price or agreed discounted price is paid in full, at which time title passes directly to the purchaser.

5.2.9 Copyright

The artist is the owner of copyright in the work/s. The artist authorises Umbrella to use the works and document the works by granting a non-exclusive licence (including a right of sub-licence) for the following purposes for each work in the schedule:

- (a) displaying or exhibiting the work in public
- (b) promoting the work:

- by having a digital image or photograph of the work made which is then provided to or made available to the public or to clients

- by publishing a digital image or photograph of the work on Umbrella's website, social media platforms, newsletters and other platforms

- printing an image of the work and displaying or distributing to a mailing list for no charge

- other uses of a similar nature to those outlined above that are made as part of promoting the work.

The artist acknowledges that visitors to the exhibition are permitted to take photographs of the works. The artist agrees that Umbrella is not liable in any way for any breaches of the artist's rights in the work which are committed by third parties to this agreement.

The artist allows Umbrella to keep image documentation of the works on file for beyond the scope of the sale or loan of works outlined for promotion of Umbrella and for the purposes of promoting other works by the artist.

None of these uses of the work are intended to detract from any moral right of the artist. If the artist has a concern

in respect of their moral rights in the works, the artist is invited to raise that concern with Umbrella.

5.2.10 Insurance and repairs

Umbrella will, during the exhibition, endeavour to ensure that all artwork is protected from hazards of fire, theft, insects, dirt, foodstuffs, beverages, smoking or handling by unauthorised persons, however: Umbrella does not accept any liability for damage to the artwork whilst being exhibited or during transit to and from the gallery. It is the responsibility of the artist to insure works in transit and whilst on display for exhibition in the gallery.

Umbrella will promptly notify the artist if a work is lost, stolen, or damaged.

5.2.11 Integrity of the works and artist information

The gallery must display a notice which identifies the artist as the creator of the work. The gallery may copy and exploit the artist's name, approved likeness and approved biography in connection with the works and sale of the works. Without limiting the artist's moral rights under the *Copyright Act 1968* (Cth), the gallery must not, and must not let any other person or organisation, destroy, damage, dispose of or alter the work unless otherwise agreed to in writing from the artist.

5.2.12 Termination

Unless terminated earlier, this agreement ends on expiry of the consignment period (2.3). If a party commits a breach of this agreement, the other party must notify the party in breach, in writing, of the breach. The party in breach must remedy the breach within 28 calendar days of the notice (*Notice Period*). The party who gave the notice may terminate this agreement immediately by written notice to the party in breach if:

- the breach is incapable of remedy; or
- the party in breach fails to remedy the breach within the notice period.

Either party may terminate this agreement by written notice to the other party if the other party becomes insolvent, is declared bankrupt, has a liquidator appointed or goes into administration, voluntary or otherwise, or if the other party ceases to carry on business or threatens to do so. Either party may terminate this agreement for any reason with 14 calendar days written notice to the other party. On termination or expiry of this agreement:

- the gallery loses any rights which the artist granted to the gallery under this agreement (excepting the image documentation noted at 5.1.9); and

- the gallery must, at the artist's cost, return any unsold works to the artist within 30 calendar days.

5.2.13 Disputes

If a dispute or disagreement (*Dispute*) arises between the parties in connection with this agreement:

- one party must notify the other party in writing about the dispute (*Notice of Dispute*); and neither party may start any litigation or arbitration in relation to the dispute until the parties have complied with this clause.

The parties should meet within 14 calendar days after receipt of the Notice of Dispute and hold good faith discussions to attempt to resolve the dispute. If the Dispute is not resolved within 28 calendar days after receipt of the Notice of Dispute, the parties agree to submit the Dispute to mediation according to the Arts Law

Centre Mediation guidelines current at that time (*Guidelines*). These Guidelines are part of this agreement. If the parties are not able to agree to a mediator, the Arts Law Centre must appoint a mediator. The parties must continue to perform their respective obligations under this agreement despite the existence of a dispute. Nothing in this clause will impact on either party's rights to terminate under clause 5.1.12 of this agreement.

5.2.14 General provisions

The parties acknowledge that the gallery is the agent of the artist as a result of this agreement only in respect of the works listed in the Schedule. A notice required to be given under this agreement may be emailed to the address of the party indicated at the top of this agreement. Notices are taken to have been served when received, or within 2 business days of having been sent, whichever occurs first. The gallery must not assign, sub-license, sub-contract, novate or otherwise transfer any of its rights or obligations under it without the artist's prior written consent. This consent must not be unreasonably withheld. Subject to the aforementioned clauses, this agreement is

the entire agreement between the parties regarding its subject matter. Any previous understanding, agreement, representation or warranty relating to this subject matter is replaced by this agreement and has no further effect. Nothing in this agreement transfers or excludes any applicable cultural rights in favour of Australian Indigenous people that may be implemented under Australian law. This agreement may only be modified by a written amendment signed by the parties. Invalidity of any clause of this agreement will not affect the validity of any other clause except to the extent made necessary by the invalidity. This agreement is governed by the law in force in Queensland. The parties submit to the jurisdiction of the courts of that State and any court competent to hear appeals from those courts.

The exhibition must be completely ready by 4pm Thursday preceding the opening. This includes placing artworks and labels and configuring lighting. Umbrella will be responsible for lighting the exhibition once all the works have been hung. This can be in consultation with the artist.