

Third Thursday Vintage Market & Boutique
Consignment Agreement

Agreement made effective the ____ day of _____, 20____, by and between Third Thursday at Merchant Square (Consignee), whose business address is 17730 E 39th St S, Independence, MO and (Consignor) whose address is _____, in consideration of the payments, promises, agreements and other considerations herein and subject to the terms and conditions hereof Consignee and Consignor do hereby agree as follows.

1. **Terms of Agreement.** This agreement shall commence on the effective date set out above and continue for one month. Thereafter, this agreement shall continue for one-month periods and terminate by either the Consignee or Consignor pursuant to Section VIII. Default and Termination

2. **Agency.** Consignor hereby appoints Consignee and Consignee hereby accepts appointment as Consignor's agent for the purpose of display, marketing, security measures and sale of Merchant's property consisting of (1) Antiques and (2) other items in accordance with section III. Merchandising "merchandise" which the consignor displays in Third Thursday at the address set above.
 - a. **Display.** Consignee agrees to display Consignor's merchandise in the market in the location of which is selected by Consignee. Consignor agrees that Consignee's possession and / or custody of Consignor's property, including merchandise, is governed solely by the terms of this Agreement.

Consignor agrees that the determination of the amount of space and location of display area is solely for the purpose of (1) providing adequate room for the Consignor's merchandise and (2) allowing Consignor to group its type and quality of merchandise the Consignor offers. Consignor agrees that its use of floor space (1) is not exclusive between Consignee and Consignor, (2) does not create any real property interest in Consignee and (3) does not create a relationship of landlord and tenant between Consignee and Consignor.

- b. **Marketing.** Consignee agrees to furnish marketing services consisting of (1) substantial ongoing advertising and (2) regular promotions.

- c. **Sales.** Consignee agrees to receive in its name of Consignor's agent all payment including applicable sales and use taxes, for purposes of merchandise.

Consignor authorizes Consignee to accept cash or credit card payment for the merchandise and applicable sales and use taxes. Consignee agrees to take such reasonable steps as Consignee establishes from time to time to determine that the signor of a credit cards sales draft is the person whose name appears on the credit card and that at the time of purchase the credit card is valid and not over limit.

Consignor agrees not to misrepresent merchandise with respect to age, authenticity, authorship, connection with noted people or events, or otherwise. Consignor authorizes Consignee to make customer aware that all representations of such matters are those of the Consignor and not of Consignee. Consignor also agrees the Consignee may elect to refund all amounts paid by customer for merchandise which Consignee determines in its judgement was misrepresented. Consignor agrees to reimburse Consignee on demand for full amount of any such refund, and in the event of Consignor's refusal to reimburse, Consignee may, without limiting any other remedy which it may have, deduct the amount of such refunds for the amounts which Consignee owes or comes to owe Consignor.

"Gross Consignor Sales" is defined as the total sales price, including sales and use tax, of all Consignor Merchandise sold by Consignee.

"Net Consignor Sales" is defined as Gross Sales less sales and use tax, credit card fees, compensation, commissions, and all other amounts due and owing to Consignee at the time Consignee pays Consignor its Net Consignor Sales. Consignee agrees to pay Net Consignor sales no later than 7 calendar days after the close of the market.

- d. **General.** Consignor acknowledges that many other dealers display Merchandise in the Store and agrees that none of the Consignees' duties of agency are owed to any Consignor individually but are owed only to all dealers jointly. The parties agree that any and all duties of agency shall be governed exclusively by this Agreement.

- 3. Merchandising.** Third Thursday is a juried show. Special attention is paid to the type of Merchandise brought in. The appearance and presentation of the merchandise in the market is critical to both the Consignor's and Consignee's success. In the event the consignor is unable to meet the staging requirements, Consignee agrees to provide consignor pre-approved contacts the Consignor can hire to assist with merchandise and design. It is the responsibility of the Consignor to pay for all services. Staging requirements must be consistently met to retain a space at Third Thursday.

Consignor agrees to comply with all of the policies and procedures, including but not limited to the quality control guidelines attached to and made part of the Agreement as Exhibit A, concerning the maintenance of display and high quality merchandise. Such policies will be uniformly enforced and are subject to addition, deletion or modification from time to time as Consignee's sole discretion upon notice to Consignor.

Consignor agrees not to display any signs, literature, brochures, business cards or similar without Consignee's prior written approval. Consignee agrees to remove all items not in compliance within 24 hours after Consignee gives Consignor notice of non-compliance.

Consignor understands that space and location is at the Consignee's sole discretion and may change from time to time.

Consignor agrees to the Code of Conduct, attached as Exhibit B. Consignor understands that the violation of the Code of Conduct, as determined by Consignee, may result in immediate termination of this Agreement.

Consignor can build a structure in their space with prior approval from Third Thursday management. All building materials and labor are the sole responsibility of the Consignor and will not be reimbursed at the time the Consignor leaves Third Thursday.

- 4. Compensation.** Consignor agrees to pay consignee a sales commission of 22% (Twenty Two percent) of total Gross Consignor Sales (excluding sales and use taxes) plus all credit card fees at 2.5%
- 5. Loss and Damage.** Consignor agrees to allow all bags, boxes, and all other containers leaving the Store to be checked by Consignee's for the protection of all

Consignors. Additionally, Third Thursday is equipped with a 24 hours surveillance system

It is the sole responsibility of Consignor to ensure merchandising is done in a manner that is safe for all parties. Nothing should be left inside or outside the building that is not properly secured with safety in mind. Injury or property damage caused by negligence will be the responsibility of the Consignee

Consignee provides, at its sole expense and for its sole benefit, that which it deems to be adequate general liability (bodily injury or death) and property (Consignees' equipment, fixtures and other personal property) insurance coverage. Consignor acknowledges and agrees that Consignee does not provide any insurance coverage of any kind for Consignor. Consignor agrees to provide, at its sole expense, insurance covering all its property, including Merchandise, which it brings into the Store, and its own general liability insurance.

Consignor hereby releases and agrees to hold Consignee, its officers, agents, employees and contractors, harmless from and accept full responsibility and risk of loss for any and all damage, destruction, theft or other loss of any kind occurring by any cause to Consignor's property, including Merchandise.

Consignor also hereby releases and agrees to hold Consignee, its officers, agents, employees, and contractors harmless from and against any and all claims, liabilities, and damage, including attorneys for destruction of the Store occurring by any cause.

Consignor agrees to defend, indemnify, and hold Consignee, its officers, agents, employees, and contractors harmless from and against any and all claims made and any and all liabilities and damages, including attorneys fees and costs, sought by or awarded to any third parties which in any way and to any extent arise out of or from (i) Consignor's its officers', agents', employees', invitees', customers', or contractors' use of the Store and surrounding areas including by example and not limitation, sidewalks, parking and loading areas, (ii) any breach or default in the performance of any Consignor obligation under this Agreement, or (iii) any act, omission or negligence of Consignor, its officers, agents, employees, invitees, customers and/or contractors.

- 6. Termination.** Both Consignor and Consignee shall be entitled to terminate this Agreement without cause upon thirty (30) days written notice. Consignor agrees to remove all Merchandise from the store within that time period.

If Consignor violates the Code of Conduct, it will result in immediate termination of this Agreement.

7. **Miscellaneous.** This agreement is the entire agreement of the parties. Any modifications must be made in writing, and signed by both parties.

The failure of either Consignor or Consignee to enforce at any time or for any period of time, any of the provisions of this Agreement shall not constitute a waiver thereof. No delay or forbearance of either party is entitled will constitute a waiver thereof, and exercise of the same or any other remedy or right to which the party is entitled shall not preclude the further exercise of the same or any other remedy or right to which the party is entitled.

Headings and captions are for the purposes of reference only and no substantive effect.

Notices and other communications by a party shall be deemed given when personally delivered or when deposited in the United States mail as registered or certified mail, postage prepaid, addressed to the party at the address at the beginning of the Agreement.

Any provision which is judicially determined to be of limited application or prohibited by law, in whole or part, shall be ineffective to the extent of such limitation or prohibition without affecting the remainder of this Agreement.

In the event suit is filed under this Agreement the prevailing party shall be entitled to its reasonable attorney's fees.

This Agreement is agreed to be made and construed in accordance with the laws of the State of Arizona. Venue shall be in the Maricopa County, Arizona.

IN THE WITNESS THEREOF, the parties execute this Agreement on the dates indicated below.

Merchant Square Antiques, LLC
DBA Third Thursdays at Merchant Square

Consignee

Dated _____

Printed Name

Consignor

Dated _____