

**KOLIBRI'S AVENUE OF THE PENINSULA ART GALLERY AGREEMENT**

**THIS AGREEMENT** is entered into this 1<sup>st</sup> day of \_\_\_\_\_ 2005, by and between Kolibri Digital Connection, Inc., a California corporation ("KDC") and \_\_\_\_\_, ("Artist"), at Torrance, California, hereby agree as follows:

- 1. Reproductions, Unlimited Editions, Unsigned Posters:** KDC agrees to display in its art gallery located in Rolling Hills Estates, CA. for a period of forty-five (45) days, offer for sale and take orders on a print on demand basis, the Artist's unlimited, unsigned posters. KDC shall pay to Artist, a royalty equal to seven (7%) percent of the KDC's selling price. KDC shall set the selling price of each poster. A list of agreed upon images by KDC and Artist shall be included in Addendum A of this Agreement. Artist further agrees to provide to KDC a framed Display Print for each image to be displayed in the gallery. The Artist shall provide Display Prints to KDC at no cost to KDC. At the expiration of this Agreement the Display Prints and the frame shall become the sole property of the KDC to sell or dispose of as KDC wishes without royalty to the Artist. KDC and Artist agree that this paragraph is to be included in this agreement: Circle and Initial: [Yes] [No].
- 2. Reproductions, Limited Editions, Signed by the Artist Digital Prints:** KDC agrees to display in its art gallery located in Rolling Hills Estates, CA. for a period of forty-five (45) days, offer for sale and take orders on a print on demand basis, the Artist's limited edition, signed prints. KDC shall pay to Artist, a royalty equal to fifty (50%) percent of the KDC's selling price. Artist shall pay for all printing costs. KDC and Artist together shall set the selling price of each limited edition image. A list of agreed upon limited edition images by the Artist shall be included in Addendum B of this Agreement. Artist further agrees to provide to KDC a framed and signed Display Print for each image displayed in the gallery. The Artist shall provide Display Prints to the KDC at no cost to the Distributor. At the expiration of this Agreement the Display Prints and the frame shall become the sole property of the KDC to sell or dispose of as KDC wishes without royalty to the Artist. KDC and Artist agree that this paragraph is to be included in this Agreement: Circle and Initial: [Yes] [No].
- 3. Original Artwork:** KDC agrees to display in its art gallery located in Rolling Hills Estates, CA. for a period of forty-five (45) days, offer for sale and collect payment for the sale of the Artist's original artwork. KDC shall pay to Artist a royalty of (50%) fifty percent of KDC's selling price. KDC and Artist together shall set the selling price of original work of art. A list of agreed upon Artist's original artwork shall be included in Addendum C of this Agreement. In the event that the original artwork is not sold during the KDC and Artist agree that the original artwork is to be returned to the Artist. KDC and Artist agree this paragraph is to be included in the Agreement: Circle and Initial: [Yes] [No]
- 4. Statements.** KDC shall provide Artist with an accurate and complete statement setting forth the original work of art and reproductions sold during the quarter, the gross proceeds there from, and the amounts due Artist.
- 5. Payment.** Payment to the Artist/Publisher shall be made by the Gallery 30 days after the full payment has been received, and will include all commissions due for any/all artworks sold.
- 6. Invoice from Artist:** Artist production of original works of art will be on a consignment basis, with Artist presenting an invoice to KDC upon delivery. The KDC shall credit to Artist for original works of art, sold and paid for during the calendar quarter, the amounts in accordance with the agreed upon invoiced amount.
- 7. Marketing.** The KDC shall have the rights to market Artist's work and shall be responsible for all the expenses incurred in that marketing effort. The parties agree that KDC's marketing efforts may include electronic media, advertising in periodicals and trade publications, brochures or other written material regarding Artist, and the displaying of Artist's works at trade shows.
- 8. Care and Insurance.** KDC shall exercise all due and responsible care in handling, storage, and temporary delivery to other persons of said art works until Artist has been paid for such art works or they have been returned to Artist's possession.
- 9. Covenants and promises of Artist.** Artist hereby covenants, promises, represents and agrees as follows:

**KOLIBRI ART GALLERY & CUSTOM FRAMING, LLC.**

550 Deep Valley Drive, Suite #345, Rolling Hills Estates, CA 90274 - Phone: 310.377.2633 Fax: 310.377.2640

E-Mail: [galerie.kolibri@verizon.net](mailto:galerie.kolibri@verizon.net) - [www.kolibriartstudio.com](http://www.kolibriartstudio.com)

- a. Artist represents that he has title to each and every work of art he delivers to KDC. Artist authorizes KDC during the period of this Agreement to deliver title to the artwork covered by this Agreement to purchasers and to collect from them a price established by KDC.
  - b. To deliver artwork created by Artist for purpose of sale and display in return for payment in accordance with the provisions of Paragraph 4 of this Agreement. Artist represents that each work of art delivered to KDC under this Agreement is bona fide, original work of art created by Artist.
  - c. Artist further represents that he has no contractual agreement, deal, or understanding, whether oral or written, with any other person, group or entity, which prohibits or limits the artist from entering into this Agreement.
  - d. Artists agrees to indemnify KDC from any liability, lawsuit or damages that KDC may suffer as a result of claims, demands, costs, attorney fees, judgments, and or any other expenses against KDC made by any person, group, or entity that they had an exclusive agreement, deal, or understanding with Artist for the sale of works of art of Artist and any reproductions of any nature of such work of art.
10. **Terms and Termination:** This Agreement shall begin on the date written above and shall continue for a period of forty-five (45) days unless earlier terminated as provided in this Paragraph:
- a. Either party may terminate this Agreement at any time upon the material breach by the other party of any of the obligations contained herein if such breach shall not have been remedied with then (10) days of receipt of written notice of said breach.
  - b. After termination of this Agreement, KDC may continue to sell originals owned outright by KDC and signed reproductions.
11. **Assignment.** Either party without the written consent of the other party hereunder, shall assign neither this Agreement, nor any of the rights or obligations.
12. **Arbitration.** Any claim, controversy or dispute or whatever nature arising out of or concerning the Agreement, or breach thereof, shall be resolved by final and binding arbitration in accordance with the commercial Arbitration Rules of the American Arbitration Association and judgment upon the award rendered by the arbitrator(s) shall be binding and may be entered in any court, within the State of California, having jurisdiction thereof. KDC and one by the Artist and third to be selected by the two arbitrators so chosen in accordance with American Arbitration Association Rules of Practice and Procedure then in effect shall conduct the arbitration before a panel of three (3) arbitrators, one chosen. The parties shall be entitled to only such discovery as is permitted by the California Code of Civil Procedure 1283.05. The Arbitrators shall have full power to make such orders, rules and regulations, as they shall deem just and expedient in respect to any procedure of matter involved in this arbitration. The Arbitrators shall have the authority and power to request the production of any books or records in the possession or control of either of the parties and to order that either of the parties shall have access to and be permitted to inspect and makes copies thereof. If either party refuses or neglects to furnish the papers or information requested by the Arbitrators, the Arbitrators shall be empowered to make an ex party award against such party. The Arbitrator shall have the power to order and direct or shall deem necessary to be done by either the parties, including, but not limited, interim awards, provisional remedies, and temporary injunctive relief.
13. **Law.** This Agreement shall be governed and interpreted under the laws of the State of California. This Agreement may be executed in fax counterparts.
14. **Severability.** If any clause in this Agreement is declared illegal or invalid, the balance of this agreement shall remain enforceable, its clauses being severable.
15. **Entire Agreement.** This written Agreement contains the sole and entire Agreement between the parties and shall supersede any and all other agreements, oral or written, made by KDC and Artist. The parties acknowledge that neither of them has made any representations except those specifically set forth herein and that they have relied on their own judgment in entering into the same.

Kolibri Digital Connection, Inc.

Artist

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Wayne Headrick, Vice-President

The Management-11.03.05-WH

**KOLIBRI ART GALLERY & CUSTOM FRAMING, LLC.**

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