

## AUCTION CONSIGNMENT AGREEMENT

For ebay, Craigslist & Amazon Website sales

This Consignment Agreement, hereinafter referred to as "this Agreement", states the terms of the Parties' agreement with respect to personal property, hereinafter referred to as "the property", consigned to Texasconsignmentshop.com hereinafter referred to as the "TCS" by the seller identified below, hereinafter referred to as the "Owner". The property is listed on a property inventory form attached to this Agreement, executed separately or property identified as being subject to this Agreement. Owner agrees to offer the property for sale on ebay, Craigslist or Amazon, subject to the terms set forth in this agreement. **TCS cannot guarantee any sale price in a public auction format but will use its experience to try and generate the best price possible for the property.** TCS will act solely as an agent in any transaction between the Owner and the eventual buyer.

### 1. EXCLUSIVE RIGHTS OF SALE.

By consigning this personal property, Owner agrees to grant to TCS the exclusive right to market and sell the property for a **period of 45 days from the date this Agreement is signed**. Accordingly, the property cannot be withdrawn from the sale by the Owner for any reason without the consent of TCS. TCS may withdraw the property from consignment for any reason. The Owner may not attempt to sell, destroy, or alter the property during the period of this Agreement.

### 2. COMMISSION AND FEES.

For TCS's services, which may include preparing the property for sale, describing the property, photographing the property, listing the property, communicating with prospective buyers about the property, closing the sale, accepting payments for the property, and shipping the property to the buyer at their expense, Owner agrees that, according to TCS's current commission schedule, TCS shall automatically deduct any commissions owed from the final sale price of item(s) prior to issuing final payment to Consignor.

**The current TCS commission schedule is as follows:**

**A:) Any item where the final selling price is between \$.01 and \$100.00, the commission is 35%**

**B:) Any item where the final selling price is between \$100.01 and \$500.00, the commission is 32.5%**

**C:) Any item where the final selling price is \$500.01 or more, the commission is 30%.**

Final selling price is based on the final qualifying bid. When an item sells, TCS shall deduct commissions from the auction proceeds. In the event an item does not sell within 45 days, the **Owner can pay \$5 per item to receive the item back** or they can allow TCS the option to donate the item to a nonprofit or thrift store or TCS choosing.

### 3. ADDITIONAL FEES.

The Owner shall also pay TCS for any and all fees charged by third party auction websites used by TCS to market, list and/or sell the property which may include listing fees, final value fees, PayPal fees, and any optional fees charged for special website placement. Owner shall also pay TCS for any moving, shipping, rental and/or storage fees relating to the sale of the property.

### 4. INSURANCE AND LIMITATION OF LIABILITY.

TCS shall not be liable in any way for damages, whether general, special, incidental or consequential, however caused, whether by loss, theft, or damage, including negligence, arising out of consignment and/or sale of the property, and including the packing and shipping of the property. Any insurance claims arising from the damage of the property during shipment or transportation shall be the responsibility of the buyer.

### 5. RESPONSIBILITIES AND LIMITATIONS OF THE OWNER.

Along with the submission of the property, Owner shall provide TCS with any and all information pertaining to the property which shall consist of all information about the property which may include, but not be limited to written descriptions, provenance, history, authorship, period, culture, source of origin, quality, rarity, existence of copyright or other proprietary or intellectual property rights pertaining thereto, condition/damage reports, estimates of value and reserves, and such other information as TCS may from time to time require of Owner.

### 6. METHOD OF SALE.

(a) **Timing of Auction.** TCS shall retain full control over the timing, method, location and type of auction to use in selling the property, including the use of reserves.

(b) **Place of Auction.** TCS may use any third party auction website or any website owned by TCS to market and sell the property. TCS may also sell the property to buyers it contacts directly if it thinks the best price is achieved in this manner.

(c) **Use of Owner's Name.** Owner's name, or designated business name as noted in the Agreement, will not be disclosed by TCS to the successful buyer of the property.

(d) **Reserves.** Reserves may be established by the Owner if TCS believes there is a reasonable chance the reserve will be met. If the property fails to reach its reserve, TCS may re-offer the property at a future sale, within the period of this Agreement, with no reserve, provided any re-listing fees shall be paid by the Owner.

(e) **Shill Bidding.** Neither Owner, its principal, if any, nor any other representative or agent shall bid on the property. Such bidding is considered shill bidding and is strictly prohibited by TCS and ebay.

(f) **Completion of Sale.** No sale shall be considered complete until the buyer has made final and full payment to TCS in cash, credit card, or PayPal payment. The sale shall be considered complete after the

property has been shipped to the buyer and the buyer has confirmed receipt of the property in the condition described and photographed.

(g) **Non-paying Buyer.** In the event that TCS is unable to collect payment from a buyer, no payment shall be made to Owner for the property; however, any fees associated with the property shall still be paid to TCS to the extent that TCS is unable to recover the charges. Once TCS deems the sale unable to be collected, the property may be re-listed at the discretion of TCS or offered to the other bidders in the auction.

#### 7. SETTLEMENT OF ACCOUNT.

**No later than 30 business days after the completion of sale**, TCS shall pay Owner the net proceeds received and collected from the sale of the property after deducting any fees or commissions due and, electronic transfer fees, as appropriate, and any other expenses, fees and charges due hereunder or required by law, provided that no claim has been made against any of the property or proceeds of sale, that there are no funds due TCS for whatever reason, and further provided that the buyer has not given notice of intent to rescind the sale.

#### 8. SELLER'S WARRANTIES AND INDEMNITY.

(a) **Warranties.** Owner represents and warrants to TCS that: (1) Owner has the right, power and authority to consign the property for sale and to enter into this Agreement and to perform all obligations hereunder; (2) the property is, and, until sold, shall remain free and clear of all liens, encumbrances or claims of third parties of any kind whatsoever; (3) good title will pass to the buyer upon sale; (4) there are no restrictions on TCS to reproduce photographs of the property; and (5) the information Consignor has provided to TCS in the Agreement is true and correct. Owner acknowledges and agrees that TCS will rely upon the accuracy and completeness of the foregoing warranties.

(b) **Indemnity.** Owner shall defend, indemnify, and hold harmless, TCS, its employees and agents, against any and all claims, actions, damages, losses, liabilities and expenses (including reasonable attorney's fees for counsel of our choice) arising out of or resulting from any and all claims raised by the buyer of the property, including but not limited to, ownership or right to possession of any of the property, any alleged breach by Owner of any obligation, representation or warranty pursuant to this Agreement, or from TCS's offering for sale or selling the property, whether or not it has been returned to Owner.

#### 9. WITHDRAWAL BY CONSIGNOR.

Owner shall not withdraw the property from the sale, for any reason, after this Agreement has been signed, without the signed consent of TCS. Owner shall not sell or dispose of the property by any other means during the period of this Agreement. A breach of this paragraph shall be grounds for TCS to immediately terminate this agreement. **A cancellation fee of \$10 will be charged for each cancelled listing.** All fees incurred for said listings must be paid

before the Consignee may retrieve their item(s) from TCS. Additionally, Owner shall be barred from using TCS Consignment Services in the future.

10. TCS'S RIGHT TO WITHDRAW PROPERTY FROM SALE.

TCS shall have the right to withdraw the property at any time prior to the sale if, in its judgment, (1) there is doubt as to the information provided by Owner, (2) the information provided by Owner concerning the property is inaccurate, (3) Owner has breached or it is anticipated it will breach any provision of this Agreement, or (4) TCS has doubt about title to the property or the authority to pass clear title to the property. Withdrawal of property pursuant to this paragraph shall be the basis for immediate termination of this Agreement.

11. MISCELLANEOUS

Owner has read and understands all of the terms and conditions of this agreement. Should the Owner bringing any legal action against TCS related to this transaction, the matter shall be decided in a court of law in the State of Texas. In the event that said court of law decides in favor of TCS, the Owner agrees to pay all legal costs incurred by the TCS to defend against such action.

Texas Consignment Shop

1114 Custer Pass

San Antonio, TX 78232

210-663-7557

**Please Print**

Agreed to this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_

Owner: \_\_\_\_\_

Owner Address: \_\_\_\_\_

Owner Tel. #: \_\_\_\_\_

Owner E-mail: \_\_\_\_\_

Owner Signature: \_\_\_\_\_

Payment Method Preferred (circle one):

Check

PayPal® (PayPal email): \_\_\_\_\_

Owner Signature: \_\_\_\_\_

