

# SEATTLE EROTIC FESTIVAL

## ARTIST'S CONSIGNMENT AGREEMENT

Artist's Legal Name: \_\_\_\_\_

Business Name /Professional Name (if applicable): \_\_\_\_\_

Mailing Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_ Country: \_\_\_\_\_

Home Phone: \_\_\_\_\_ Business Phone: \_\_\_\_\_

Cell Phone: \_\_\_\_\_ Business Email: \_\_\_\_\_

Home Email: \_\_\_\_\_ Web Address: \_\_\_\_\_

Are you:  An individual (i.e., you do not run a business around your art)  A sole proprietor  An INC or LLC  
(choose one)  A general or limited partner With whom? \_\_\_\_\_

There are occasions when SEAF makes public an artist's personal information, such as an artist's name, business email, web address, and so on. These occasions might include, for instance, the art catalog, on art labels, when an artist's work is shown on the SEAF website, or when the press or an art patron inquires about an artist's work.

What information may be provided to the public? (check all that apply)

Name  Web Address  Business Email  Business Phone  Country/State of Origin

**THIS CONSIGNMENT AGREEMENT** is made this day \_\_\_\_ of \_\_\_\_\_, 2018 ("the Effective Date"), by and between the Foundation for Sex Positive Culture ("FSPC"), a Washington nonprofit corporation located at 1037 NE 65th St., #356, Seattle, Washington, 98117, and the artist ("the Artist") named above.

### RECITALS

- A. FSPC produces the annual event known as the Seattle Erotic Art Festival ("the Festival");
- B. FSPC has invited the Artist to display and sell the Artist's work(s) of art (the "Artwork") at the 2018 Festival; and
- C. The Artist desires to display and consign for sale the Artist's Artwork at the 2018 Festival.

### AGREEMENT

- 1. Festival Dates and Location.** The Festival will take place April 27, 2018 through April 29, 2018, at the Seattle Center Exhibition Hall, 301 Mercer Street, Seattle, WA 98109 ("the venue").
- 2. Agency; Purpose.** The Artist appoints FSPC as agent for the Artwork consigned under this Agreement, for the purposes of exhibition and sale. FSPC will not permit the Artwork to be used for any other purposes without the written consent of the Artist. This agreement applies only to the Artwork consigned under this Agreement and does not make FSPC a general agent for any other works.
- 3. Consignment.**
  - a. The Artist hereby consigns to FSPC, and FSPC accepts on consignment, the Artwork listed and described on Attachment A ("Inventory Sheet"), which is a part of this Agreement.
  - b. The Artwork to be consigned will include work the Artist is exhibiting during the Festival as well as any

items the Artist is placing for sale in the Festival Store.

4. **Duration of Consignment.** The Artwork will be consigned to FSPC during the Festival dates listed in Paragraph (1), above.
5. **Sales Price of Artwork.** FSPC will offer the Artwork for sale at the selling price(s) set forth on the Inventory Sheet, and will not accept any lesser price without the prior consent of the Artist. Absent a prior written agreement, no Artwork will be sold without payment in full.
6. **Commission.** FSPC will be entitled to a commission of 40% of the stated retail price of each piece of Artwork sold. The Artist will be paid the remaining 60% of the stated retail price of each piece of Artwork sold.
7. **Title.**
  - a. The Artwork is trust property in the hands of FSPC, which is a trustee for the benefit of the Artist until the Artwork is sold to a third party and the full amount due has been paid to the Artist, or until the Artwork has been tendered to the shipper for return to the Artist or has been picked up by the Artist or the Artist's agent.
  - b. All proceeds from the sale of the Artwork will be held by FSPC in trust for the Artist.
  - c. Title to an Artwork remains in the Artist until the Artist has been paid the full amount due for the Artwork. Thereafter, title passes directly to the purchaser.
  - d. The trust relationship described above imposes no duty greater than that expressly provided above and does not give rise to any other fiduciary relationship.
8. **Terms of Payment.** Payment to the Artist will be made by check within 30 days after the end of the Festival.
9. **Representations and Warranties of Artist.** The Artist hereby represents and warrants the following:
  - a. That the Artwork is original;
  - b. That the Artist is the sole creator of the Artwork, or that if any Artwork being submitted was created with assistance from, in collaboration with, or in conjunction with any other artist(s), that the other artist(s):
    - i. Have prior knowledge of the Artist's intent to display and sell the collaboratively created and/or produced Artwork at the 2018 Festival;
    - ii. Have expressly consented to the display and sale of the Artwork at the Festival and can, upon request, furnish a signed and notarized letter to that effect; and
    - iii. Have been duly credited, and that such credit will be displayed in conjunction with the Artwork.
  - c. That the Artist possesses unencumbered title to the Artwork;
  - d. That the descriptions of the Artwork are true and accurate;
  - e. That the Artist is the sole and exclusive owner of all rights granted to FSPC in this agreement and has all rights to enter into this agreement; and
  - f. That the Artwork does not, in whole or in part, infringe any copyright, or violate any right to privacy or other personal or property right whatsoever.
10. **Transportation and Receipt of Artwork.**
  - a. **From Artist to Festival.** The Artist may deliver the Artwork to the Festival via shipper or hand-delivery.
    - i. **Delivery via Shipper.**
      - (A) If the Artist is shipping the Artwork to the Festival (including Store-only Artwork), the Artwork must be shipped to the following address:

SEAF  
c/o Gallery Erato  
309 First Ave. S.  
Seattle, WA 98104
      - (B) The Artist must provide an air bill from a shipping company, preferably Federal Express or UPS,

for the return shipping of any unsold Artwork. If the Artist does not provide such an air bill for the return of unsold Artwork, the Artist will be deemed to have donated any unsold Artwork to FSPC.

(C) If the Artist is shipping the Artwork to the Festival from within the United States, the Artist understands and acknowledges that **Festival personnel will not accept domestically shipped Artwork that arrives earlier than April 2, 2018 or later than April 20, 2018.**

(D) If the Artist is shipping the Artwork to the Festival from a location outside of the United States, the Artist **may ship immediately upon receipt of invitation to exhibit or sell.** Festival personnel will take delivery of internationally shipped Artwork **through April 20, 2018.**

ii. **Hand Delivery of Exhibition Artwork.** If the Artist is hand-delivering Exhibition Artwork and/or Store Artwork, the Artist or the Artist's agent, **must deliver the Artwork to the venue on Tuesday, April 24, 2018, between 4:00pm and 8:00pm.** Festival personnel will not accept hand-delivered Artwork at any other time without prior written arrangement.

iii. **Delivery Expenses.** Packing and shipping charges, insurance costs, and any other handling expenses are the sole responsibility of the Artist, regardless of the method of delivery.

**b. From Festival to Artist.**

i. All unsold Artwork will be packed by Festival personnel for return to the Artist. FSPC will be responsible for the costs associated with repacking and preparing unsold Artwork for return.

ii. If the Artist has provided FSPC with an air bill for return shipping, Festival personnel will deliver the unsold Artwork to the designated shipper for return shipping to the address on the air bill.

iii. If unsold Artwork is being picked up in person, the Artist, or the Artist's Agent, **must pick up the Artwork at the venue on Sunday, April 29, 2018, between 6:00pm and 8:00pm.** Arrangements for pick-up at times other than this must be made in writing and approved in advance.

iv. Any Artwork that does not have an air bill for return shipping or is not picked up during the times designated in Paragraph 10(b)(iii) will be deemed a donation to FSPC.

**11. Responsibility for Loss or Damage.**

a. The Artist bears the risk of loss or damage to the Artwork incurred in the delivery of the Artwork from the Artist to the Festival.

b. Upon receipt of the Artwork by Festival personnel, the risk of loss or damage to the Artwork transfers to FSPC. This Paragraph 11(b) notwithstanding, Festival personnel may not unpack the Artwork immediately upon receipt. Therefore, if, upon unpacking, it is discovered that the Artwork is damaged, FSPC is not liable unless the damage occurred due to mishandling by or other negligence of Festival personnel.

i. If, upon unpacking, Festival personnel discover that the Artwork is damaged, Festival personnel will notify the Artist within 24 hours. Festival personnel will photograph the damage and provide the Artist with the photographs by electronic means.

ii. It will be the Artist's sole responsibility to pursue recourse for the damage with the carrier or delivery agent. If requested, Festival personnel will provide the Artist with narrative documentation of the damage as it was discovered upon unpacking.

c. FSPC will be responsible for the safekeeping of all consigned Artwork while they are in its custody, and will use its best efforts to protect the Artwork while it is being prepared for exhibition and sale, and while it is on exhibit and for sale. In the event of loss or damage to the Artwork while in FSPC's custody (except for damage resulting from flaws inherent in the Artwork), FSPC will be liable to the Artist for the value of the Artwork as stated on the Inventory Sheet. For the purposes of this agreement, the value of the Artwork is the amount the Artist would have received had the Artwork sold.

d. Upon delivery of the Artwork to the designated shipper, or to the Artist or the Artist's agent, the risk of loss or damage to the Artwork transfers back to the Artist.

**12. Insurance.** While FSPC will make every reasonable effort to care for and protect all Artwork in FSPC's custody, FSPC does not carry insurance covering any Artwork. Therefore, the Artist is strongly encouraged to purchase insurance sufficient to cover the full selling price of the Artwork being consigned.

**13. Reproductions.**

- a. The Artist retains the copyright on all of the Artwork consigned.
- b. FSPC may, for the sole purpose of promoting the Festival, photograph them for inclusion in a catalog, or other promotional materials so long as, in each instance, the Artist is credited as the creator of the work and the holder of the copyright.
- c. The above paragraphs notwithstanding, photography is permitted in the event space, and the Festival's evening events are attended by the press. It is, therefore, possible that the Artwork may be photographed (intentionally or unintentionally) and appear, uncredited, on social media sites or in the newspaper. Although the Festival discourages anyone from directly photographing the exhibited art, the Festival is not responsible for photos taken by anyone other than the Festival's hired photographer(s).

**14. Termination of Agreement.**

- a. This Agreement may be terminated without penalty by either party up to 30 days before the date of Festival upon written notice.
- b. Notice to FSPC must be sent to the attention of F. Sophia Iannicelli, Executive Director, at FSPC's address listed on the first page of this Agreement. Notice to the Artist will be directed to the address listed on the first page of this Agreement.
- c. Neither party will be liable for failure to perform in the event that the failure is due to the cancellation of the Festival; acts or regulations of authorities; civil tumult; inclement weather such that travel is prevented; strike; epidemic; or any other legitimate cause beyond the control of the party failing to perform.

**15. Severability and Waiver.** Whenever possible, each provision of this Agreement will be interpreted so as to be effective and valid under applicable law. However, if any provision of this Agreement is found to be invalid under applicable law, the parties agree that the remainder of the Agreement will remain in full force and effect and will in no way be impaired.

**16. Governing Law; Venue.**

- a. This Agreement and any attachments, will be governed and construed in accordance with the laws of the State of Washington, without regard to its conflict of laws principles.
- b. Any action to enforce, arising out of, or relating to any provisions of this Agreement will be brought and prosecuted in the Superior Court of King County, Washington.

**17. Attorney's Fees.** If any suit or other proceeding is brought under this Agreement, in addition to any other relief to which the successful or prevailing party ("the Prevailing Party") is entitled, the Prevailing Party is entitled to recover, and the non-Prevailing Party will pay, all reasonable attorneys' fees and court costs of the Prevailing Party.

**18. Entire Agreement.** This Agreement, including the Recitals and Exhibits, constitutes the complete and final agreement between FSPC and the Artist, and may only be amended or modified in a writing signed by both parties.

**THE PARTIES**, intending to be legally bound, have executed this Agreement as of the date first indicated above.

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**Sophia Iannicelli**  
Executive Director,  
Foundation for Sex Positive Culture

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**Artist Signature**