



## TERMS AND CONDITIONS

The Consignor listed on the front of this agreement (the "Consignor") and the Guild Shop of St. John the Divine (The "Guild Shop") agree that the following terms and conditions shall apply to all items consigned by the Consignor (a "Consignment") at the Guild Shop:

1. **Ownership.** Consignor represents and warrants to the Guild Shop that he or she is the owner of all items described on the front of this agreement (the "Consignment Contract") which Consignor desires to be consigned at the Guild Shop, and that Consignor has full legal authority to consign such items. Consignor acknowledges that the Guild Shop is relying on this representation and warranty in accepting items for sale under this Consignment Contract.
2. **Condition of the Consigned item.** Consignors are responsible for assuring that all items consigned meet all Guild Shop requirements and are correctly described on the front of this agreement. Consignor agrees that the Guild Shop may donate or discard items that are soiled, torn, damaged, or broken, and that no fee shall be due to Consignor in connection therewith.
3. **Price of the Consigned item.** The Guild Shop, in its sole discretion, establishes the price at which all items will be offered for sale. Although the Guild Shop welcomes suggestions from Consignors as to appropriate pricing, the Guild Shop retains the right to determine the actual price at which all items will be sold. By entering into this Consignment Contract, the Consignor agrees to the price and the associated markdown schedule for each item.
4. **Markdown.** All merchandise is reduced at a regular schedule until it reaches the final markdown, at which time it becomes impounded (unless the item is \$100 or more), which means that the consigned item becomes the property of the Guild Shop and no consignment fee will be paid to Consignor. Items at the last price over \$100 are repriced as consigned items under the Consignor's account. Consignors are responsible for knowing the mark down schedule applied to their consigned items. Holiday items may be marked down after the holiday, prior to the final markdown.
5. **Auctions and eBay.** The Guild Shop, in its sole discretion, may list consigned items on eBay or any other on-line auction or sales website if the Guild Shop determines that the consigned item will be sold for a higher price in that venue. All fees and expenses associated with the sale of the consigned item shall be paid by the Guild Shop, and Consignor shall be paid a fee of two-thirds (2/3rds) of the final sale price of the consigned item.
6. **Fees and Payments.** The Guild Shop pays the Consignor two-thirds (2/3rds) of the price at which an item is sold (the "Consignor Fee"). Consignor Fees are paid by check monthly, provided that all Consignor Fees due to the Consignor for the month is at least \$15.00. Checks will be available on the 15<sup>th</sup> day of the month (or the first work day after the 15<sup>th</sup>) after the month in which the items were sold. Checks not picked up will be mailed. The Guild Shop may assess a handling fee for all checks. Any Consignor fees not paid during the year, regardless of amount, will be paid at the end of the calendar year.
7. **Reclaiming Items.** Any items originally priced under \$60 that do not sell may not be reclaimed by the Consignor at any time. Items originally priced at \$60 or greater may be reclaimed by the Consignor at any time prior to final markdown by paying a 10% surcharge on the original price. Reclaimed items cannot be re-consigned for six (6) months.
8. **Risk of Loss.** All items are consigned at the Consignor's risk of loss. No bailment is created. The Guild Shop assumes no responsibility whatsoever for the loss, theft, damage, or destruction of an item.
9. **Release and Indemnity.** Consignor, on behalf of himself and his successors and assigns, irrevocably and unconditionally releases and discharges, and agrees to defend and hold harmless the Guild Shop and its officers, employees, and the Board of the Guild Shop of St. John the Divine, harmless from any and all claims, demands, damages, liabilities or causes of action of any nature whatsoever, known or unknown, asserted or unasserted, liquidated or unliquidated, fixed or contingent, or any nature whatsoever, including, without limitation, claims for personal injury, property damage and reasonable attorneys' fees incurred in connection therewith (collectively, "Claims") relating to or arising from, directly or indirectly this Consignment Contract, the consignment of any item, or Consignor's presence on the premises of the Guild Shop.
10. **Authority to Bind.** Each Party represents, covenants and warrants to the other that they or their duly authorized representatives have read this Consignment Contract and fully understands it; that they have executed it with the intent to be fully bound according to its terms, that in signing this Consignment Contract, they have relied solely on their own knowledge or their own duly authorized representatives' knowledge and judgment and not in reliance upon any representation, warranty, advice, statement, or action of any kind of the other Party except as set forth in these terms and conditions.
11. **No Third-Party Beneficiary.** This Consignment Contract shall be binding upon the Consignor and the Guild Shop only. There are no third-party beneficiaries.
12. **Severability.** If any provision of this Consignment Contract is or found to be invalid or unenforceable by a court of competent jurisdiction, the remaining terms and conditions shall continue in full force and effect and shall not be affected thereby.
13. **Jurisdiction, Venue and Choice of Law.** This Consignment Contract shall be construed in accordance with the laws of the state of Texas, without regard to its choice of law principles, and the Parties agree that exclusive venue for the interpretation or enforcement of this Consignment Contract shall be in a state court of competent jurisdiction in Harris County, Texas, and all Parties consent to the jurisdiction of such courts.
14. **Entire Agreement.** This Consignment Contract sets forth the entire agreement and understanding between the Parties as to the subject matter hereof and supersedes all previous contracts and discussions between the Parties as to the matters herein addressed. This Consignment Contract may only be amended or modified in a writing executed by all Parties.