

## APPRAISER REFERRAL AGREEMENT

THIS APPRAISER REFERRAL AGREEMENT (this “*Agreement*”) is made and entered into effective as of the \_\_\_\_ day of \_\_\_\_\_, 201\_ (the “*Effective Date*”) by and between **KERSTEN’S ANTIQUES & CURIOS, LLC**, an Oklahoma limited liability company (“*Kersten’s*”), and the individual appraiser signing in the “Appraiser” signature block below (“*Appraiser*”).

### W I T N E S S E T H:

WHEREAS, Kersten’s operates a website at kerstensantiques.com (the “*Website*”) which, among other things, provides an online service pursuant to which users/customers of the Website (“*Customers*”) can request to be referred to an appraiser qualified to provide a valuation of antiques, artworks, collectibles or other items of personal property (“*Items*”);

WHEREAS, Kersten’s maintains and/or will maintain a data base of appraisers under contract with Kersten’s with expertise in various areas or with respect to certain types of items from which Customers may select an appraiser to perform for appraisal of his or her particular item with Kersten’s assisting to match such item with the selected appraisers known areas of expertise;

WHEREAS, the selected appraiser then provides an appraisal of the item directly to the Customer and collects his or her fee directly from the Customer subject to the terms and conditions of this Agreement and, with respect to Customer, the terms and conditions agreed to by Customer as a condition of using the Website;

WHEREAS, Appraiser is a provider of valuation services and possesses qualifications, experience and expertise with respect to performing appraisals for the types of items or property, or areas listed in **Exhibit A**; and

WHEREAS, Appraiser desires to be included in Kersten’s appraiser database and to perform appraisal services for Customers from time to time as and when Kersten’s refers Customers to him/her under the terms and on the conditions set forth in this Agreement;

NOW THEREFORE, in consideration of the foregoing premises and the promises herein made, together with other good and valuable consideration, the receipt, adequacy and legal sufficiency of which are hereby acknowledged, the Parties agree as follows:

1. **Services.** Kersten’s hereby agrees to include Appraiser in its appraiser database accessible to Customers through the Website, and Appraiser hereby approves and authorized such inclusion and agrees to perform appraisal services from time to time for Customers requesting appraisals from Appraiser with respect to Items they submit to for valuation. The Website will direct Customers to send requests for appraisals via e-mail to Appraiser (each, a “*Request*”). Upon receipt of a Request, Appraiser will appraise the item based on the information available, issue a appraisal report and/or take other action in accordance with the following:

(a) **Acceptance of Referrals.** Appraiser will accept the Request and agree to perform appraisal services subject to the terms hereof for the referred Customer by confirming in writing via e-mail to the Customer in a reasonably prompt manner after receipt of the Request. In the event that Appraiser does not confirm acceptance of the Request within such time period, Kersten’s may refer the Customer to another appraiser without any liability to Appraiser or it may agree to allow Appraiser to proceed despite missing the deadline. If Appraiser is unable to fulfill the Request upon receipt (i) due to time constraints or otherwise, (ii) due to the Request being for an appraisal which is outside the Appraiser’s area of expertise, or (iii) if the Appraiser determines, in its professional opinion, that an appraisal cannot be properly performed based on

the type or quality of the information provided (such as if an in person inspection would be necessary); then, in any such event, Appraiser shall notify the Customer (or, if Appraiser is unable to reach customer, it shall notify Kersten's) as soon as possible within the time period described above. Continual failure to timely respond to Requests will likely result in less Requests being sent to Appraiser and could result in the removal of Appraiser from Kersten's database and Website, which Kersten's reserves the right to do in its sole and absolute discretion. NOTWITHSTANDING ANY PROVISION IN THIS AGREEMENT TO THE CONTRARY, KERSTEN'S IS NOT OBLIGATED TO REFER ANY CUSTOMERS TO APPRAISER AS A RESULT OF SIGNING THIS AGREEMENT AND APPRAISER AGREES THAT HE/SHE IS NOT GUARANTEED OR PROMISED THAT IT WILL RECEIVE ANY REQUESTS FOR APPRAISAL SERVICES AS A RESULT OF ITS ENTRY INTO THIS AGREEMENT, AMOUNTS AND/OR FREQUENCY OF PRIOR REQUESTS DURING THE TERM OF THIS AGREEMENT OR OTHERWISE.

(b) Appraiser's Response to Requests. As part of the Request or pursuant to the direction of Appraiser in his or her acceptance of the Request, Customer will forward all information and photos of the Item(s) to be appraised. After receipt of such information, Appraiser will reply to Customer via telephone or e-mail in a reasonably prompt manner to confirm receipt and to notify Customer of any further information required from Customer to complete the appraisal and the fees he or she will charge for the appraisal subject to Section 2 below.

(c) Appraisal Report. If a Request is accepted by Appraiser, then, within a reasonable time period consistent with any agreements made between Appraiser and the Customer or, if none, generally accepted practices in the professional appraisal industry, after the later of (i) Appraiser's receipt of the Request, or (ii) Appraiser's receipt of the additional information from the Customer requested by Appraiser pursuant to Section 1(b) above, Appraiser will send an appraisal report/evaluation (as described below) to Customer (the "***Appraisal Deadline***"). Appraiser will issue a USPAP compliant report or evaluation, as appropriate and responsive to the Customer's request, specifying Appraiser's opinion of the fair market value and replacement value of the Item(s). The appraisal report or evaluation will be completed and sent to Customer via email or other method requested by Customer on or before the Appraisal Deadline. If not received on or before the Appraisal Deadline, Kersten's may refer the Request to another appraiser without any obligation to Appraiser whatsoever and the Customer will likewise have no further obligation to Appraiser including, without limitation, any obligation to pay fees for services that have been provided even if Appraiser completes an appraisal report or evaluation but it is not received by the Customer by the Appraisal Deadline; provided that if extenuating circumstances occur or are present making delivery of the appraisal report or evaluation by the Appraisal Deadline impracticable or impossible, the Appraiser may contact the Customer in advance of the Appraisal Deadline and request a reasonable extension of the Appraisal Deadline to a specific date, which, if agreed to by Customer in an e-mail or other writing, will be the new Appraisal Deadline subject to the above terms. All appraisal reports/evaluations completed by the Appraiser will comply with the terms and conditions set forth in this Agreement and any forms or guidelines provided by Kersten's to Appraiser during the Term of this Agreement. Kersten's reserves the right to reject any Appraisal report or evaluation submitted to a Customer if it is not in accordance with the terms and conditions of this Agreement or other guidelines provided to Appraiser by Kersten's in which case, Appraiser shall be considered to not have submitted an appraisal report or evaluation for purposes of determining compliance with the deadline specified in (b) above.

(d) Customer Comments About and Ratings of Appraiser. Appraiser acknowledge its full understanding that the Website will allow Customers to post comments regarding Appraiser and/or rate Appraiser's services on the Website. Such comments and/or ratings will be

made publically available for review by all users and/or viewers of the Website. APPRAISER HEREBY CONSENTS AND AGREES TO KERSTEN'S SOLICITATION AND RECEIPT OF COMMENTS, COMPLAINTS AND/OR RATINGS FROM CUSTOMERS REGARDING APPRAISER'S PERFORMANCE OF APPRAISAL SERVICES PERFORMED FOR CUSTOMERS CONTACTING APPRAISER THROUGH THE WEBSITE. KERSTEN'S RESERVES THE RIGHT TO REMOVE APPRAISER FROM THE DATABASE AND WEBSITE AT ANY TIME FOR ANY REASON WITHOUT ANY LIABILITY OR OBLIGATION TO APPRAISER. NOTWITHSTANDING ANY PROVISION IN THIS AGREEMENT TO THE CONTRARY, IN NO EVENT SHALL KERSTEN'S OR ANY OWNER OR AFFILITATE OF KERSTEN'S OR ANY OF THEIR RESPECTIVE EMPLOYEES, AGENTS OR CONTRACTORS (COLLECTIVELY, "**KERSTEN'S RELATED PARTIES**"), BE LIABLE TO APPRAISER FOR, AND APPRAISER HEREBY WAIVES AND RELEASES KERSTEN'S AND THE KERSTEN'S RELATED PARTIES FROM, ANY AND ALL CLAIMS, SUITS, LOSSES, DAMAGES, COSTS OR EXPENSES ARISING AT ANY TIME, WHETHER ARISING UNDER CONTRACT, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY OR OTHERWISE, AS A RESULT OR RELATING TO (i) THE POSTING OF COMMENTS, COMPLAINTS, CRITICISMS OR RATINGS BY CUSTOMERS OR OTHERS ON THE WEBSITE; OR (ii) THE FAILURE FOR ANY REASON BY KERSTEN'S OR ANY KERSTEN'S RELATED PARTY TO MONITOR, PREVENT OR REMOVE ANY COMMENTS OR RATINGS POSTED ON THE WEBSITE REGARDING APPRAISER; EVEN, IN ALL CASES, IF CAUSED BY THE NEGLIGENCE, STRICT LIABILITY OR OTHER LEGAL FAULT OF KERSTEN'S OR A KERSTEN'S RELATED PARTY. KERSTEN'S MAY REMOVE INAPPROPRIATE OR UNFAIR COMMENTS OR RATINGS IN ITS SOLE AND ABSOLUTE DISCRETION, BUT SHALL HAVE NO OBLIGATION TO DO SO AND SHALL NOT BE IN ANY WAY LIABLE FOR ITS FAILURE TO DO SO, WITH ANY SUCH FAILURE BEING SUBJECT TO THE PRECEDING SENTENCE.

2. **Fees.** Appraiser will charge fees for appraisals which are reasonable and customary in the professional appraisal industry for the type and value of the item(s) being appraised. Appraiser will advise the Customer of the total fee that will be charged for the requested appraisal after receipt of the Request and within the time frames set forth in Section 1(b) above. Appraiser will not proceed with any work unless and until the Customer affirmatively agrees to such proposed fees in an e-mail or other writing. Appraiser will be solely responsible for collecting all fees payable by Customers for appraisal reports or evaluations and any applicable taxes required by law to be collected from the Customers and remitted to taxing authorities and agrees that Kersten's has no liability or responsibility therefor whatsoever. Appraiser acknowledges and agrees that (a) Kersten's does not collect credit or other information regarding Customers' ability to pay the Appraiser's fees prior to referral to Appraiser, (b) Kersten's does not warrant or guarantee in any way that Appraiser will be able collect its fees from referred Customers, and (c) Appraiser accepts all Customers referred to it hereunder as-is and waives any claims against Kersten's relating to any Customer's failure to pay Appraiser any fees or expenses due or alleged to be due to Appraiser, or other claims made by Customers against Appraiser.

3. **Term.** This Agreement shall be for an term of one (1) year commencing as of the Effective Date; provided that the term shall be automatically renewed for successive one (1) year renewal terms unless either party provides written notice of termination to the other at least thirty (30) days prior to the end of the initial term or any renewal term (the initial term and all applicable renewal terms collectively, the "**Term**"). Notwithstanding the foregoing, this Agreement may be terminated for convenience by either party at any time upon thirty (30) days prior written notice from such party. Further, Kersten's shall have the right to immediately terminate this Agreement upon Appraiser's breach of any of the terms or conditions set forth herein and to pursue any available rights and remedies under applicable law, and may suspend or remove Appraiser's name from its database at any time due to

negative comments from Customers or to otherwise protect the reputation and goodwill of the Website as determined by Kersten's in its sole discretion.

4. **Representations and Warranties.** Appraiser represents and warrants that (a) he or she is a United States citizen or, if located outside the United States, a citizen of \_\_\_\_\_; (b) he or she has attended and passed the 15-hour national USPAP course and exam taught by an AQB-certified USPAP instructor and is and has remained current since passing said 15-hour course by taking 7-hour national USPAP update courses taught by AQB-certified USPAP instructors at least every twenty (24) months after passing the 15 hour course, or is certified by another organization as qualified appraiser approved in writing by Kersten's; (c) that in performing services hereunder, it shall comply with all rules of the USPAP or other certifying organization approved by Kersten's; (d) he or she has at least three (3) years experience performing appraisals in the areas of expertise described in **Exhibit A**; (e) entering into this Agreement with Kersten's and its performance of services hereunder does not and will not conflict with or result in any breach or default under any other agreement to which Appraiser is subject; (f) he or she has the required skill, experience, and qualifications to perform the services described herein, shall perform the services in a professional and workmanlike manner in accordance with generally recognized industry standards for similar services, and shall devote sufficient resources to ensure that the services are performed in a timely and reliable manner; (g) he or she shall perform the services in compliance with all applicable federal, state, and local laws and regulations; (h) all deliverables are and shall be his or her original work (except for material in the public domain or provided by the Customer or Kersten's) and do not and will not violate or infringe upon the intellectual property right or any other right whatsoever of any person, firm, corporation, or other entity; and (i) that he or she has not been convicted of a felony. Completion of the courses described in clause (b) above is required for Appraiser to provide appraisal services to Customers although Kersten's may waive such requirements on a case by case basis in its discretion.

5. **Intellectual Property Rights.** During the Term of this Agreement and thereafter in connection with appraisal reports or evaluations prepared by Appraiser during the Term, Appraiser grants Kersten's the royalty-free license and right to use Appraiser's name, likeness and biographical material on the Website or in other materials for informational purposes with respect to Appraiser's services hereunder and for the advertising and publication of Kersten's appraisal services or the Website.

6. **No Direct Solicitation of Customers.** Except for performing appraisal services in response to a Customer Request referred to Appraiser pursuant to this Agreement, Appraiser agrees that it will not pursue or solicit any business with the Website's Customers including, without limitation, inquiring with regard to or attempting to purchase Items therefrom or performing additional appraisal services for the Customer, or contact or solicit the Customers for any purpose outside of performing appraisal services in response to a referred Customer Request without the express written permission of Kersten's, which may be withheld in Kersten's sole discretion.

7. **Indemnification.** Appraiser shall defend, indemnify, and hold harmless Kersten's and its affiliates and their officers, directors, employees, agents, successors, and assigns from and against all claims, losses, damages, liabilities, deficiencies, actions, judgments, interest, awards, penalties, fines, costs, or expenses of whatever kind (including reasonable attorneys' fees) arising out of or resulting from: (a) bodily injury, death of any person, or damage to real or tangible personal property resulting from Appraiser's (or its employees, agents or contractors) acts or omissions in connection with this Agreement; (b) Appraiser's (or its employees, agents or contractors) breach of any representation, warranty, or obligation under this Agreement; or (c) claims by Customer's against Appraiser in connection with or related to the services performed by Appraiser for the Customer. Kersten's may satisfy such indemnity (in whole or in part) by way of deduction from any payment due to Appraiser.

8. **Confidentiality.** Appraiser acknowledges that it may have access to information that is treated as confidential and proprietary by Kersten's or Customers, including, without limitation, appraisal

reports or evaluations prepared by Appraiser and the information provided by Customers with respect to the Items to which they pertain, the identity and any information regarding the Customers, the existence and terms of this Agreement and any trade secrets, technology, information pertaining to business operations and strategies, customers, pricing, marketing, finances, sourcing, personnel, or operations of Kersten's, its Affiliates, or their suppliers or customers, in each case whether spoken, printed, electronic, or in any other form or medium (collectively, the "**Confidential Information**"). Any Confidential Information that Appraiser develops in connection with the Services, including, without limitation, any deliverables or intellectual property rights, shall be subject to the terms and conditions of this Section. Appraiser agrees to treat all Confidential Information as strictly confidential, not to disclose Confidential Information or permit it to be disclosed, in whole or part, to any third party without the prior written consent of Kersten's in each instance, and not to use any Confidential Information for any purpose except as required in the performance of services under this Agreement. Appraiser shall notify Kersten's immediately in the event it becomes aware of any loss or disclosure of any Confidential Information. In the event that it makes a disclosure contrary to the provisions of this Section, Kersten's shall have the right, without prejudice to any other rights or remedies it may have hereunder or otherwise, to terminate this Agreement effective immediately upon notice to Appraiser. This obligation shall be of a continuing nature and shall survive the expiration, suspension or termination of the Agreement. In the event Appraiser is compelled by law or judicial or administrative process to disclose any such Confidential Information, it shall give prior notice of such disclosure to Kersten's and shall cooperate with Kersten's efforts to avoid or minimize the extent of the required disclosures. Kersten's shall be entitled to seek injunctive relief for any violation of this Paragraph. Confidential Information shall not include information that: (a) is or becomes generally available to the public other than through Appraiser's breach of this Agreement; or (b) is communicated to Appraiser by a third party that had no confidentiality obligations with respect to such information.

9. **Survival.** The terms and conditions of Sections 1(d), 5, 6, 7, 8, 10, 13, 14 and 15 shall survive any expiration or termination of this Agreement.

10. **Notices.** Notices shall be in writing and shall be deemed to have been received (a) three (3) business days after the date when mailed by United States certified mail (postage prepaid, return receipt requested) to the addresses of the parties set forth below the signature of each party, (b) one (1) business day after the date when forwarded via nationally recognized overnight delivery service to the addresses of the parties as set forth below the signature of each party, (c) upon receipt if delivered by hand, or (d) upon confirmation of receipt by the recipient if sent by e-mail.

11. **Assignment.** Appraiser shall not assign or transfer any rights, or delegate or subcontract any obligations, under this Agreement, including by change of control, merger (whether or not such party is the surviving entity), operation of law or any other manner, without Kersten's prior written consent. Any assignment in violation of the foregoing shall be deemed null and void. Kersten's may freely assign its rights and obligations under this Agreement at any time. Subject to the limits on assignment stated above, this Agreement will inure to the benefit of, be binding upon, and be enforceable against each of the parties hereto and their respective successors and assigns.

12. **Amendment.** This Agreement may only be amended, modified, or supplemented by an agreement in writing signed by each party hereto, and any of the terms hereof may be waived only by a written document signed by the party or parties waiving compliance.

13. **Governing Law.** This Agreement shall be governed by and construed in accordance with the laws of the State of Oklahoma without giving effect to any choice or conflict of law provision or rule. Each party irrevocably submits to the exclusive jurisdiction and venue of the federal and state courts located in Tulsa County, Oklahoma in any legal suit, action, or proceeding arising out of or based upon this Agreement or the Services provided hereunder. THE PARTIES HEREBY WAIVE THE RIGHT TO

TRIAL BY JURY IN ANY LITIGATION ARISING OUT OF OR RELATING TO THIS AGREEMENT.

14. **Severability.** If any term or provision of this Agreement is invalid, illegal, or unenforceable in any jurisdiction, such invalidity, illegality, or unenforceability shall not affect any other term or provision of this Agreement or invalidate or render unenforceable such term or provision in any other jurisdiction.

15. **Entire Agreement.** This Agreement, all exhibits or schedules attached hereto, together with any documents incorporated herein by reference and related exhibits and schedules, constitutes the sole and entire agreement of the parties to this Agreement with respect to the subject matter contained herein, and supersedes all prior and contemporaneous understandings, agreements, representations, and warranties, both written and oral, with respect to such subject matter.

16. **Counterparts.** This Agreement may be executed in multiple counterparts and by facsimile or other electronic signature, each of which shall be deemed an original and all of which together shall constitute one instrument.

(Signature Page Follows)

IN WITNESS WHEREOF, the parties hereto have each caused this Agreement to be executed and delivered by its duly authorized officer or representative effective as of the Effective Date.

**“Kersten’s”:**

**“Appraiser”:**

**KERSTEN’S ANTIQUES & CURIOS, LLC**

By: \_\_\_\_\_  
Name: Kersten Nagle  
Title: President

Print Name: \_\_\_\_\_

Notice Address:

Notice Address:

Kersten’s Antiques & Curios, LLC  
Attn: Kersten Nagle  
5510 S. Lewis Ave.  
Tulsa, OK 74105  
Phone: (918) 359-3304  
E-mail: Kersten@kerstensantiques.com

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
Phone: ( ) -  
E-mail: \_\_\_\_\_

**EXHIBIT A**

**APPRAISER QUALIFICATIONS AND AREAS OF EXPERTISE**

If resume, bio or other information attached, check here: \_\_\_\_ (if checked, the attached document is made a part of this Agreement)

**A. Appraiser Certifications (list):** \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**B. Areas of Expertise (circle all that apply):**

- 1. Militaria
  - a. Army
  - b. Navy
  - c. Marines
  - d. Air force
  - e. Coast Guard
  - f. Foreign Nations Military
  - g. Uniforms
  - h. Rank insignia
  - i. Ribbons
  - j. Metals
  - k. Weapons
  - l. War bonds
  - m. Posters
  - n. Civil war
  - o. WW1
  - p. WW2
  - q. Vietnam
  - r. Korea
  - s. Mexican American
  - t. Allied Powers
  - u. Axis Powers
  - v. Equipment
  - w. Vehicles
- 2. Automobilia - Classic cars
  - a. Chevy
    - i. Corvette
  - b. Ford
    - i. Mustang
  - c. Dodge
  - d. Jeep
  - e. Posters
  - f. Oil cans



- g. Gas pumps
  - h. Signs
  - i. Emblems
  - j. Hubcaps
  - k. Hood ornaments
  - l. NASCAR
  - m. Pro Series
  - n. Clothing
3. Tools – collectable pre 1960
- a. Hand tools
  - b. Wood working
  - c. Power tools
4. Toys
- a. Metal
  - b. Wood
  - c. Plastic
  - d. Figurines
  - e. Dolls
  - f. Plush
  - g. Barbies
  - h. Bears
  - i. Electronic
5. Posters
- a. Music
  - b. Automotive
  - c. Signed
  - d. Event
6. Clocks
- a. Watches
  - b. Alarm
  - c. Grandfather
  - d. German
7. Comics
- a. Marvel
  - b. Anime
  - c. Series
  - d. Batman
  - e. Superman
8. Coins
- a. American
  - b. English
  - c. Ancient
  - d. German
  - e. Spanish
  - f. Canadian
  - g. French
  - h. Chinese
  - i. Japanese

- j. Russian
  - k. Rare Coins
  - l. Grecian
  - m. Roman
  - n. Medieval- Asian, European
9. Jewelry
- a. Handmade
  - b. Metal
  - c. Plastic
  - d. Beaded
  - e. Art deco
  - f. Costume
  - g. Gems
  - h. Diamonds
  - i. Silver
  - j. Gold
  - k. Titanium
  - l. Sterling silver
10. Americana
- a. House hold appliances
  - b. 40's memorabilia
  - c. 50's memorabilia
  - d. 60's memorabilia
  - e. Office furnishings
  - f. Automotive
11. Transportation Memorabilia
- a. Aeronautic
    - i. Commercial
    - ii. Military
    - iii. Personal
  - b. Nautical
    - i. Commercial
    - ii. Military
    - iii. Personal
  - c. Railroad
12. Flags
- a. National
  - b. Country
  - c. State
  - d. City
  - e. Military
  - f. Eclectic
13. Soft drink
- a. Coke
  - b. Pepsi
  - c. Dr. Pepper
  - d. R/C
  - e. Crush
  - f. Nehi Soda

- 14. Rare Documents
  - a. Documents with Famous Signatures
  - b. Manuscripts
- 15. Books
  - a. American
  - b. European
  - c. First editions
- 16. Furniture
  - a. Early American
  - b. European
  - c. Bauhaus/contemporary
  - d. Primitive
  - e. Office
  - f. American
  - g. French
  - h. Art Deco
  - i. Colonial
  - j. Victorian
- 17. Silverware
  - a. American
  - b. European
- 18. Ceramics
  - a. Asian
  - b. North American
  - c. European
  - d. Native American
- 19. Other (*write in*):
  - a. \_\_\_\_\_
  - b. \_\_\_\_\_
  - c. \_\_\_\_\_
  - d. \_\_\_\_\_
  - e. \_\_\_\_\_
  - f. \_\_\_\_\_
  - g. \_\_\_\_\_
  - h. \_\_\_\_\_
  - i. \_\_\_\_\_
  - j. \_\_\_\_\_
  - k. \_\_\_\_\_
  - l. \_\_\_\_\_