

CONTRACT FOR COMMISSIONING OF ARTWORK

DEFINITIONS

1. **AMENDMENT** shall mean an agreement that changes any term or condition hereof.
2. **BUYER** shall mean the _____ (*insert name of entity commissioning the work, including type [LLC, Corp, etc..]*) _____.
3. **ARTIST** shall mean that individual or commercial entity performing services under this contract, and shall include all employees, SUBCONTRACTORS, and/or agents of the ARTIST.
4. **CONTRACT** shall mean this Contract for Commissioning of Artwork.
5. **DESIGN** shall mean the description, specifications for, model of, and/or drawings of the WORK.
6. **SUBCONTRACTOR(S)** shall mean one not in the employment of the ARTIST, who is performing all or part of those services under this CONTRACT under a separate contract with the ARTIST, and who is considered an independent contractor.
7. **WORK** shall mean the work of art to be designed, executed, fabricated, transported, and/or installed under this contract.

This CONTRACT is made and entered into by and between _____ (*insert name of entity commissioning the work*) _____, hereinafter called the BUYER, with offices at _____ (*insert commissioner's address*) _____ and _____ (*insert name of artist or artist's company*) _____ hereinafter called the "ARTIST", with offices at _____ (*insert artist's address*) _____.

The BUYER and the ARTIST, for the consideration, covenants, and conditions hereinafter set forth, do agree as follows:

1. RETENTION OF ARTIST

The BUYER does hereby retain the ARTIST to perform the work and services hereinafter described. The ARTIST is an independent contractor and shall furnish all supervision, labor, materials, supplies, equipment or use thereof, travel expenses, and all other incidentals, except as specifically provided below, and shall conduct and complete the work in a competent and professional manner.

2. TIME SCHEDULE

The ARTIST shall commence work upon the effective date of this CONTRACT and shall complete the WORK including all phases under this CONTRACT by _____ (*insert the date upon which the artwork is to be completed*) _____.

The effective date of the CONTRACT is determined to be the date that both the ARTIST and BUYER have signed this CONTRACT.

Such time for completion may be extended by the joint agreement of the parties to the extent the ARTIST actually incurs delays in the design, fabrication, delivery and/or installation of the WORK due to circumstances unforeseen by the ARTIST at the time of the signing of this CONTRACT.

3. SCOPE OF WORK

A. Description of Work

The ARTIST shall complete the design, fabrication, delivery and/or installation of the WORK in substantial conformity with the DESIGN for the WORK, as described below and perform all tasks as indicated below.

The DESIGN is attached to this CONTRACT as **Attachment A**, and by this reference, incorporated into this CONTRACT as though set forth fully herein.

A description of the WORK is as follows: _____ (***insert a DETAILED description of the commissioned piece here or note that it is detailed in ATTACHMENT A***) _____.

B. Location

If appropriate to the WORK as described herein, the ARTIST shall install the completed work at: ____ (***if appropriate, describe where the work will be installed***) _____.

C. Other Obligations

If other obligations, are necessary it will be the responsibility of the party indicated below. The other obligations are as follows:

BUYER: ____ (***describe what the commissioning party has to fulfill in order to make sure the work is delivered on time an on budget***) _____.

ARTIST: ____ (***the commissioning entity should use this to describe anything it requires of the Artist that hasn't been addressed already***) _____.

The ARTIST shall have the opportunity to review and approve any plans or specifications prepared by BUYER as part of the other obligations described above, including but not limited to detailed plans and/or specifications for site preparation, and/ or the design of base, footing, or other anchoring devices for the WORK, as appropriate.

D. Identification Plaque

If appropriate to the WORK delivered, BUYER shall provide and install a permanent identification plaque near or as part of the WORK at a location agreed upon by the ARTIST and BUYER. The ARTIST will be granted approval of the contents of such plaque.

E. Additional Documentation

As reasonably requested by BUYER during the execution of this CONTRACT, the ARTIST shall prepare and present to the BUYER updates, sketches, drawings, and/or other documents.

4. CHANGES TO WORK PRIOR TO COMPLETION

A Party may request that changes be made to the DESIGN at any point during execution, fabrication, or installation of the WORK. Prior to execution of any significant change to the DESIGN, as described in Section 3 and/ or Attachment A, the following procedure shall be followed:

A. The party requesting the changes shall present the proposed changes in writing to the other party for further review and approval. Upon a request by BUYER ARTIST will provide a detailed description of any significant changes in the concept, scope, dimensions, materials, and/or location of the WORK, or any change that will alter delivery timeframes, installation scheduling, site preparation, or the WORK itself.

B. When the parties agree with the changes to the WORK, as detailed by the ARTIST, written approval in the form of an AMENDMENT to this CONTRACT shall be issued stating the approved change(s) and attached to this CONTRACT, and by this reference, incorporated into this CONTRACT as though set forth fully herein.

5. REVIEW OF WORK IN PROGRESS

BUYER shall have the right at commercially reasonable times to review the progress of the WORK and the WORK itself, in order to monitor and evaluate performance, compliance, and/or quality assurance under this CONTRACT.

6. FINAL PROJECT DOCUMENTATION

The ARTIST shall submit the following documents to BUYER prior to the release of final payment.

- A. A 1-page ARTIST's statement about the WORK.
- B. A current professional resume.

8. PAYMENT

A. Payment for Work Performed

The ARTIST shall be paid by BUYER for all work and/or services related to this CONTRACT. Such payment shall be full compensation for all work performed and/or services rendered to complete the WORK.

The total payment for the WORK shall be \$__ (*insert full purchase and delivery price*) __ USD.

BUYER shall make final payment upon delivery of the WORK, accompanied by receipt of the ARTIST'S final invoice. Payment is due immediately upon transmission of ARTIST's final invoice, and any payment not received within thirty (30) days shall be subject to a late fee of five percent (5%) of the total amount of this CONTRACT, with interest, compounded daily, at the prevailing federal rate.

B. Payment Schedule

Payments will be made as set forth below:

STAGE 1:
STAGE 2:
STAGE 3:
STAGE 4:
FINAL STAGE:

(use as many or as few of these as necessary.)

C. Taxes

The ARTIST is responsible for all applicable taxes, including state sales/use and excise taxes, local and federal taxes, which may be due from him/her as a result of this CONTRACT.

D. Billing Procedures

The ARTIST shall submit invoices to BUYER via electronic mail. Such invoices shall be deemed received within one (1) hour of transmission, and shall be sent to BUYER at: ____ (***insert email address the entity commissioning the work requests***) ____.

8. ARTIST AS INDEPENDENT CONTRACTOR

The parties intend that an independent contractor relationship will be created by this CONTRACT. The ARTIST performing under this CONTRACT is not an employee, SUBCONTRACTOR, or agent of BUYER. The ARTIST will not hold himself/herself out as nor claim to be an officer or employee of BUYER nor will the ARTIST make any claim of right, privilege, or benefit which would accrue to an employee under law. Conduct and control of the work completed under this CONTRACT will be solely with the ARTIST. The ARTIST shall execute the WORK at a location determined by the ARTIST.

9. COPYRIGHT AND REPRODUCTION RIGHTS

The ARTIST shall retain all rights under copyright law to which the WORK, preliminary studies, drawings, specifications, and models may be subject. The ARTIST represents and agrees that the ARTIST is the sole creator of the WORK and that the WORK has not been previously displayed in whole or part, and that nothing in the WORK will infringe the copyright of any third party. Nothing shall

prevent the ARTIST from creating future artwork in the ARTIST'S manner and style of artistic expression.

The ARTIST grants to BUYER solely the singular WORK detailed herein. FOR THE AVOIDANCE OF DOUBT, THE ARTIST GRANTS NO RIGHT(S) OF REPRODUCTION IN ANY FORMAT, NOW KNOWN OR HEREAFTER DISCOVERED. ANY VIOLATION OR THREATENED VIOLATION OF THIS CLAUSE SHALL ENTITLE THE ARTIST TO SEEK, WITHOUT THE NEED TO POST BOND, INJUNCTIVE RELIEF, WITH ALL COSTS RELATED TO SUCH ENFORCEMENT TO BE BORNE BY BUYER.

10. ACKNOWLEDGEMENT OF BUYER

Any information releases or media announcements produced by a party, or his/her representative(s), and concerning the WORK or services performed under this CONTRACT, prior to the completion of the WORK, will be submitted to the both parties for written approval prior to any final distribution.

11. OWNERSHIP OF DOCUMENTS AND MODELS

ARTIST-prepared materials submitted under this CONTRACT shall be returned to the ARTIST. The Artist retains the rights to originals. Should the ARTIST exhibit or sell the originals of the preliminary studies he or she shall attribute BUYER as the entity commissioning the WORK.

12. NONASSIGNABILITY

Neither this CONTRACT, nor any claim arising from this CONTRACT, shall be transferred or assigned by a party without prior written consent of the other party. Notwithstanding the foregoing, ARTIST'S estate, executor or heirs may enforce the terms hereof.

13. INDEMNIFICATION

BUYER shall indemnify and hold harmless the ARTIST from any and all claims, costs, damages, or expenses arising out of any breach, threatened breach or other action taken to enforce ARTIST'S rights hereunder.

14. WARRANTY OF TITLE

The ARTIST warrants and represents that, upon delivery of the WORK and final payment to the ARTIST, BUYER shall acquire good title to the WORK, and that the WORK shall be free from any and all claims, liens, and charges by any person or entity, including but not limited to any employee, supplier, or SUBCONTRACTOR. Notwithstanding the foregoing, in no event shall BUYER receive title until and unless all outstanding invoices have been paid.

The ARTIST warrants and represents that the WORK is the result of the artistic effort of the ARTIST or disclosed and attributed collaboration, the WORK does not infringe upon any copyright, and that the WORK is unique and limited to an edition of one (1).

15. ADDRESSES FOR NOTICES AND DOCUMENTS

All notices, forms, reports, and other documents required under this CONTRACT or regarding the performance of this CONTRACT shall be delivered or mailed to the addresses stated below, or to such other address as may be specified hereafter by either party for itself by notice to the other party:

For BUYER:

For ARTIST:

16. WAIVER

Waiver of any default or breach shall not be deemed to be a waiver of any subsequent default or breach. Any waiver shall not be construed to be a modification of the terms of the CONTRACT unless stated to be such in writing, signed by authorized representative of both parties.

17. SEVERABILITY

The provisions of this CONTRACT are intended to be severable. If any term or provision is illegal or invalid for any reason whatsoever, such illegality or invalidity shall not affect the validity of the remainder of the CONTRACT.

18. TERMINATION FOR DEFAULT

In the event that a party has failed to comply with the conditions of this CONTRACT, an aggrieved party has the right to suspend or terminate the CONTRACT. Before suspending or terminating the CONTRACT, an aggrieved party shall notify the other party in writing of the need to take corrective action. If corrective action is not taken within thirty (30) days, the CONTRACT may be terminated or suspended by the aggrieved party. Such termination does not relieve ARTIST from delivering the work, in whatever state of completion it is in upon the date of termination; nor does it relieve BUYER from paying for all work completed up to and including the date of termination.

19. TERMINATION FOR DEATH OR INCAPACITY

If the ARTIST becomes unable to complete this CONTRACT due to death or incapacitation, such death or incapacity will not be deemed a breach of this

CONTRACT. However, nothing in this section shall obligate BUYER to pay for more of the WORK than was completed prior to such death or incapacity.

A. In the event of incapacity, the ARTIST may assign the ARTIST'S obligations and services under this contract to another artist provided that BUYER in its sole discretion, approves of the new artist.

B. In the event of the death of the ARTIST, this CONTRACT shall terminate effective the date of death. Should BUYER accept the partially completed WORK, the ARTIST'S executor shall deliver to BUYER the WORK in whatever form or degree of completion it may be at the time. Title to the WORK shall at that point transfer to ARTS COMMISSION. However, the WORK shall not be represented to be the completed WORK of the ARTIST unless BUYER is otherwise directed by the ARTIST'S estate.

20. TERMINATION PROCEDURE

Upon termination of this CONTRACT, BUYER, in addition to any other rights provided in this CONTRACT, may require the ARTIST to deliver to the BUYER the WORK, together with any drawings, specifications, and models and all materials and supplies purchased for the WORK

BUYER shall pay the ARTIST for services performed and goods delivered prior to the effective date of termination, consistent with the schedule of payments set forth herein. At the request of BUYER, the ARTIST shall provide an accounting of all expenses incurred under this CONTRACT prior to the effective date of termination, and shall return to BUYER any unexpended advance funds provided by BUYER in excess of expenses already incurred.

21. AMENDMENT

This CONTRACT may be amended by mutual agreement of the parties. Such AMENDMENTS shall not be binding unless they are in writing and signed by personnel authorized to bind each of the parties.

22. ENTIRE AGREEMENT

This CONTRACT, including any referenced attachments, represents all the terms and conditions agreed upon by the parties. No other statements or representations, written or oral shall be deemed a part hereof.

IN WITNESS WHEREOF, the parties have caused this CONTRACT to be executed below by their duly authorized signatories.

BUYER

ARTIST

Signature

Signature

Printed Name

Printed Name

Title

Title

Date

Date

ATTACHMENT A – DESIGN & DETAILED DESCRIPTION OF THE WORK