

NOTO ARTS and ENTERTAINMENT DISTRICT

AGREEMENT FOR PUBLIC SCULPTURE-NOTO DISTRICT 2022-2024

1. PURPOSE

_____ (“Artist) agrees to display the sculpture entitled “ _____ ” (“Sculpture”) and valued at \$ _____, on the Exhibition Site described below, and NOTO Arts & Entertainment District (“NOTO”), agrees to permit Artist to display the Sculpture, and to compensate Artist as described below This is not a purchase, loan, or bailment agreement.

2. EFFECTIVE DATE

This Agreement (“Agreement”) between NOTO and Artist shall be effective upon execution by all parties (“Effective Date”), and shall continue thereafter until all obligations of the parties to each other under this Agreement have been performed in full, unless terminated sooner under the provisions below. Upon any such termination, neither party shall have any further obligation nor liability to the other related to the subject of this Agreement.

3. TERM OF DISPLAY

Sculpture shall be available for public exhibit from May __, 2022 to April __, 2024 (refer to INSTALLATION AND REMOVAL). NOTO, at its sole discretion, can terminate this Agreement and require the Artist to remove the Sculpture from the Site prior to the end of the Exhibit upon two weeks prior written notice (“Notice of Early Termination”). Artist may request early termination of exhibit subject to negotiation and approval by NOTO.

4. STIPEND

NOTO is to pay the Artist a stipend in the amount of \$2,000 for two years. NOTO will pay one-fourth upon selection, and the remainder upon successful installation of the Sculpture. All money paid by NOTO shall be refunded to NOTO should the installation and exhibit not be completed as agreed.

5. EXHIBITION SITE AND SCULPTURE PAD

The Exhibition Site for the Sculpture will be NOTO Pad # _____, as assigned by NOTO. A map of the Exhibition Site, including the Sculpture Pad location, is attached as Exhibit A. All Sculpture Pads have been constructed by contractors licensed in the City of Topeka. .By installing the Sculpture on the Sculpture Pad, Artist represents and warrants to NOTO that the Sculpture Pad is suitable for display of the Sculpture. NOTO shall at all times, without prior notice to Artist, have the right to control access to the Site and the Sculpture Pad, and to modify and relocate the Sculpture Pad and any Sculpture thereon within the Exhibition Site.

6. IDENTIFICATION PLAQUE

An identification plaque shall be installed at the Sculpture Pad. NOTO shall be responsible for the design and installation of the plaque, and all costs related thereto. NOTO shall work with local businesses and community members to sponsor an identification plaque and NOTO shall be responsible for design and

installation of a plaque that will identify, at minimum, Artist name and title of work. Other information such as sponsorship may be included at NOTO's discretion.

7. INSTALLATION AND REMOVAL

Artist shall be responsible for transportation and delivery of the Sculpture to the Exhibition Site, and for installation of the Sculpture on the Sculpture Pad.

Artist shall be responsible for removal of the Sculpture, and for transportation of the Sculpture away from the Exhibition Site

Installation is expected 2 – 3 weeks prior to exhibit. Removal is expected 2-3 weeks at conclusion of exhibit.

NOTO may assist Artist with installation and removal of the Sculpture by providing a minimal workforce and equipment as agreed by NOTO and Artist. NOTO shall not seek reimbursement from Artist for any costs and expenses incurred by NOTO should it decide to assist Artist with installation and removal of the Sculpture. Artist and NOTO agree that installation and removal of Sculpture and anything else owned by Artist is the responsibility of Artist, and NOTO shall be held harmless and indemnified by Artist for any damage that may occur during installation and removal.

In all cases, Artist shall obtain NOTO's approval of the date and time of installation and removal of the Sculpture. NOTO shall have the right, but not the obligation, to supervise and/or assist in the installation and removal of the Sculpture.

8. MAINTENANCE

Sculpture must be made of materials that can withstand prolonged exposure to all forms and extremes of weather and require no maintenance by NOTO. Artist is responsible to maintain Sculpture.

NOTO shall maintain the Exhibition Site, the Sculpture Pad and the Identification Plaque at NOTO's cost and expense. NOTO shall not seek reimbursement for NOTO's maintenance costs from Artist.

9. SALE OF SCULPTURE

The Sculpture does not need to be for sale, shall it be for sale at the price determined by the Artist, for the duration of the exhibit, NOTO will collect a 30% commission. Should the Sculpture be purchased prior to the Termination Date, the Sculpture may be removed subject to negotiation with NOTO, e.g. replacement of work with another, return of stipend, etc.

10. LIMITED GRANT OF LICENSE

Artist hereby grants to NOTO and others it authorizes a non-exclusive, irrevocable, perpetual, worldwide, fully paid license to make, reproduce, distribute, and publicly display and perform images of the Sculpture in any 2D medium, for any marketing program. NOTO agrees to make every reasonable attempt to identify the Artist as the creator of the Sculpture on any products, marketing material or other identifying collateral related to the Sculpture.

11. REMOVAL BY NOTO

If Artist does not remove the Sculpture within the earlier 2-3 weeks of the Termination Date or a Notice of Early Termination, the Sculpture may be removed by NOTO. The parties agree that if Artist does not timely remove Sculpture, the Sculpture will become property owned by NOTO.

12. RISK OF LOSS AND INSURANCE

Artist will insure Artist's Sculpture against physical loss or damage while on location during the period of display. Prior to installation of Sculpture, Artist shall furnish NOTO with a Certificate of Insurance naming the NOTO as additional insured as evidence that the policies providing the required coverage and limits of Insurance are in full force and effect.

Artist agrees and understands that displaying Artist's Sculpture in public has inherent risks, and Artist, not NOTO, is responsible for all of those risks. In the event of defacing of, or damage to, or extraordinary wear and tear of, the Sculpture, whether by vandalism, natural disaster, or otherwise, Artist shall within four (4) weeks of written notice from NOTO make, or cause to be made, the necessary repairs to the Sculpture, at Artist's expense, up to \$1,000. If that time is not reasonable, Artist shall make the repairs within a reasonable time as agreed to by NOTO and Artist.

If the nature of the damage renders the Sculpture hazardous to the public, then the Sculpture must be restored to a safe condition as determined by NOTO in its sole discretion within two (2) weeks. In the alternative, the Sculpture shall be removed from exhibition by NOTO or Artist at the expense of Artist.

13. HOLD HARMLESS AND INDEMNITY PROVISION

Artist shall hold harmless, indemnify and defend NOTO, its board, officers, agents, employees and volunteers from all damages, costs or expenses in law or equity that may at any time arise or be asserted because of injury to property or bodily or personal injury (including death) occasioned by any willful or negligent act or omissions of Artist or any of Artist's officers, agents, employees and volunteers.

14. RESERVATION OF RIGHTS

Notwithstanding any other provisions of this Agreement, if NOTO is unable or unwilling to make, or continue to make, the Site available, or to construct the Sculpture Pad (due to budgetary constraints, Board of Director Action, inadequate available staffing, natural disaster or for any other reason, or no reason), Artist shall have no right to bring action or make any claim against NOTO as a result of such action or inaction.

15. NOTICE

Unless otherwise provided herein, all notices required hereunder shall be given by United States registered or certified mail, or other form of mail which offers proof of mailing, postage prepaid and addressed to the party at the address below:

If to NOTO:

NOTO Arts and Entertainment District
Public Arts Program
935 N Kansas Ave
Topeka, KS 66608

If to Artist:

Artist Name
Street Address
City, State, ZIP

16. MISCELLANEOUS PROVISIONS

a. This Agreement constitutes the entire understanding and agreement of the parties as to the matters set forth in this Agreement. No alteration of or amendment to this Agreement shall be effective unless given in writing and signed by the party or parties sought to be charged or bound by the alteration or amendment.

b. In the event of any disagreement, breach or conflict concerning the interpretation of this Agreement, and such disagreement cannot be resolved by the signatories hereto, the signatories agree to submit such disagreement to mediation, prior to the commencement of legal action. Should either party be successful in litigation whereby that party prevails in an action against the other party for a breach of the terms of this Agreement, the prevailing party shall be entitled to reasonable attorney's fees and costs.

c. This Agreement shall be governed by and construed in accordance with the laws of the State of Kansas and all obligations of the parties created hereunder are performable in Shawnee County, Kansas, and venue for any action arising under this Agreement shall lie in Shawnee County, Kansas.

d. The signatories hereto shall be subject to all ordinances and rules of NOTO, whether now existing or in the future arising.

e. This Agreement shall become a binding obligation on the signatories upon execution by all signatories hereto. NOTO warrants and represents that the individual executing this Agreement on behalf of NOTO has full authority to execute this Agreement and bind NOTO to the same. Artist warrants and represents that the individual executing this Agreement on his behalf has full authority to execute this Agreement and bind Artist to the same.

g. In the event any provision of this Agreement shall be determined by any court of competent jurisdiction to be invalid or unenforceable, it is the parties intent that the Agreement shall, to the extent reasonably possible, remain in force as to the balance of its provisions as if such invalid provision were not a part hereof.

h. All notices required to be given under this Agreement shall be given in writing and shall be effective when actually delivered or when deposited in the United States mail, first class, postage prepaid, addressed to the party to whom the notice is to be given at the addresses shown above. Any party may change its address for notices under this Agreement by giving formal written notice to the other parties, specifying the purpose of the notice is to change the party's address. For notice purposes, each party agrees to keep the other informed at all times of its current address.

NOTO Arts & Entertainment District

Signature

Date

Staci Ogle, Program and Communications Coordinator

Signature

Date

Artist Name