

**PUBLIC ART ON CAMPUS  
AGREEMENT TO COMMISSION ARTWORK**

Project Name: \_\_\_\_\_

Project Number: \_\_\_\_\_

Building Name: \_\_\_\_\_

University Department: \_\_\_\_\_

Total Project Budget: \$ \_\_\_\_\_

Artwork Implementation Budget: \$ \_\_\_\_\_

**PUBLIC ART ON CAMPUS  
AGREEMENT TO COMMISSION ARTWORK**

**THIS AGREEMENT** is made and entered into as of \_\_\_\_\_,  
by and between REGENTS OF THE UNIVERSITY OF MINNESOTA, a Minnesota  
constitutional educational corporation (the "University") and \_\_\_\_\_ (the  
"Artist"), an individual residing in the state of \_\_\_\_\_.

**WITNESSETH:**

**WHEREAS**, on the terms set forth below in this Agreement, the University  
desires to engage the Artist to design, manufacture, create, and install on one of the  
University's campuses an original artwork (the "Artwork"), and on those terms, the  
Artist is willing to provide such services;

**NOW, THEREFORE**, the University and the Artist agree that:

**ARTICLE 1.  
TERM**

1.01. The term of this Agreement shall commence on \_\_\_\_\_ and,  
unless extended or terminated earlier pursuant to the terms and conditions of this  
Agreement, shall terminate on \_\_\_\_\_.

**ARTICLE 2.  
ENGAGEMENT OF THE ARTIST**

2.01. Subject to the terms and conditions of this Agreement, the University  
hereby engages the Artist, and the Artist hereby agrees to be so engaged, to perform the  
services described in this Agreement (collectively, the "Work"), including, without  
limitation, the design, manufacture, creation and installation of the Artwork as  
described in the Scope of Work for Phase I, a copy of which is attached hereto as  
Schedule A, and in the Scope of Work for Phase II, a copy of which is attached hereto as  
Schedule B. The parties hereby incorporate Schedules A and B by reference into this  
Agreement. The Artist, at his or her sole expense, shall provide all labor, materials, and  
supplies necessary to complete the Work.

2.02. The Artist shall perform the Work in a satisfactory and competent manner,  
consistent with the best standards in the Artist's field. If pursuant to section 13.16 of  
this Agreement, the Artist employs or engages a person or firm to perform a part of the  
Work, the Artist shall ensure that each such person or firm shall agree in writing to be  
bound by the terms and conditions of this Agreement and that each such person or firm  
shall perform such part of the Work in a satisfactory and competent manner, consistent  
with the best standards in such person's or firm's field, and as required by the terms of  
this Agreement. Notwithstanding the Artist's employment of a person or firm to  
perform a part of the Work as permitted under this Agreement, the Artist shall remain

responsible to the University for the faithful performance, when due, of the Work, and no delegation or subcontracting of a part of the Work shall relieve the Artist of his or her duties under this Agreement.

2.03. The Work shall be divided into Phase I, which relates to the design of the Artwork and of the Work, and Phase II, which relates to the manufacture, creation, and installation of the Artwork and to the completion of the Work. The University and the Artist shall cooperate in defining the Work for Phases I and II and in preparing and revising, if needed, Schedules A and B. Unless otherwise provided in Schedule A, Phase I shall commence promptly after execution of this Agreement by the Artist and the University and shall end on the University's acceptance of that part of the Work for Phase I (the "Phase I Work"). Unless otherwise provided in Schedule B, Phase II shall commence on the University's delivery to the Artist of a Notice to Proceed. The Artist shall not commence that part of the Work for Phase II (the "Phase II Work") until after the University delivers the Notice to Proceed. The parties acknowledge and agree that after the completion of the Phase I Work, the University may elect not to proceed with the Phase II Work and may terminate this Agreement.

2.04. To take the fullest advantage of the University's exemption from state sales and use taxation, the Artist and the University agree in this section on a procedure under which the Artist shall arrange for the University to purchase directly from a manufacturer or supplier certain materials and supplies to be used in connection with the Work and on the Artist's obligations with respect to such goods.

(a) The University may request the Artist prepare and deliver to the University a list (the "List") of goods that the University may purchase directly from the manufacturer or supplier and that the Artist intends to use to perform the Work or to incorporate into the Artwork. In the List, the Artist shall describe all known manufacturers and suppliers of such goods and the likely price of each such good. In preparing the List, the Artist shall use his or her best efforts to identify multiple manufacturers or suppliers for the goods. Prior to his or her receipt of a Notice of Intent to Purchase, as that term is defined below in section 2.04(b), the Artist shall not place any binding orders for such goods.

(b) Within a reasonable period after its receipt of the List, and in no event more than thirty (30) days after the date of such receipt, the University shall notify the Artist in writing (the "Notice of Intent to Purchase") which of the aforementioned goods (collectively, the "University Property"), if any, the University will so purchase. The Notice of Intent to Purchase shall designate the University's preferred seller of such goods. In the Notice of Intent to Purchase or such other document, the University shall appoint the Artist as the University's agent for the limited purpose of placing binding orders with the University's preferred sellers on the University's behalf for the University Property and shall inform the Artist of the University's tax exemption number.

(c) Upon his or her receipt of a Notice of Intent to Purchase, the Artist shall place binding orders with the University's preferred sellers on the

University's behalf for the University Property, shall cause the sellers of the University Property to submit their invoices for payment to the University, shall coordinate and be responsible for the delivery of the University Property to a site selected by the Artist (exclusive of a site owned or controlled by the University), and shall inspect the University Property and certify to the University that the goods received conform, in quantity and quality, to the order placed. The Artist shall take all reasonable steps to ensure that the purchase of such goods is exempt from otherwise applicable state sales and use taxation. The University shall be solely responsible for the payment of invoices for the University Property and shall indemnify and hold the Artist harmless against all claims, actions, judgments, damages, liabilities and expenses (including reasonable attorneys' fees) arising out the University's failure to pay such invoices when due.

(d) After delivery of the University Property, the Artist shall take all reasonable and prudent steps necessary to protect the University Property from damage or loss, from whatever source, including, without limitation, theft, fire, or water. The University shall own all rights, titles, and interests in the University Property, subject to the rights, if any, of the seller of the University Property. The Artist shall have no rights, titles or interests in the University Property. The Artist shall not assert or claim any such right, title or interest and shall not grant or attempt to grant any person or firm a right, title or interest in the University Property. The Artist shall promptly notify the University if any person or firm shall assert or claim, or threaten to assert or claim, an interest in the University Property.

2.05. The University may request the Artist provide extra services (the "Extra Work") beyond those required in the Work as described in this Agreement and in Schedules A and B. Provided the need for the Extra Work is not due to the failure of Artist to perform the Work as provided in this Agreement, the University and the Artist shall agree upon a fair and reasonable fee to the Artist to perform the Extra Work. The Artist shall perform the Extra Work in a satisfactory and competent manner, consistent with the best standards in the Artist's field. The University shall pay the Artist the fee for the Extra Work in accordance with the terms of this Agreement.

### **ARTICLE 3. COMPENSATION**

3.01. For the performance of the Phase I Work, the University shall pay the Artist a fee (the "Phase I Fee") of \_\_\_\_\_ Dollars (\$\_\_\_\_\_). For the performance of the Phase II Work, the University shall pay the Artist a fee (the "Phase II Fee") of \_\_\_\_\_ Dollars (\$\_\_\_\_\_). All payments under this Agreement to Artist shall be made in the currency of the United States of America.

3.02. Unless otherwise provided in this Agreement, the University shall pay the Artist the Phase I Fee in installments as provided on Schedule A and shall pay the Artist the Phase II Fee in installments as provided in Schedule B.

3.03. The Phase I Fee and Phase II Fee shall be full compensation to the Artist for the performance of the Work. Except as provided in section 2.04 of this Agreement, the Artist shall pay all taxes, including, without limitation, all sales taxes, attributable to the performance of the Work.

3.04. Except as provided in this Article 3 or in section 2.04 of this Agreement, the University shall not pay, or reimburse the payment of, any cost or expense necessary to perform the Work. The Artist shall indemnify and defend the University against any claim, demand, liability, suit or expense (including reasonable attorneys' fees) arising out an agreement between the Artist and any person or firm to perform any part of the Work, including, without limitation, all claims by such persons or firms for non-payment.

3.05. Payments to the Artist shall be made within thirty (30) days on the basis of invoices submitted by the Artist at the completion of each stage. Such invoices shall be written in a form acceptable to the University and explain in reasonable detail the basis therefor, refer to the University's Project number, and be certified as true and correct by the Artist. The Artist shall submit the final invoice and other documents as are required by this Agreement within thirty (30) days of completion of the Phase II Work, unless waived by the University in writing. Prior to the completion of the Phase I Work, the University shall notify the Artist of the address to which the Artist should submit all invoices. Failure by the Artist to submit the final invoice(s) and required documents will relieve the University from any and all liability for payment to the Artist for the amount set forth in such invoice(s) or any subsequent invoice(s).

#### **ARTICLE 4. RESPONSIBILITY OF THE UNIVERSITY**

4.01. The University shall examine documents submitted by the Artist, render decisions, and advise the Artist promptly to avoid any unreasonable delay in the progress of the Work.

4.02. The University shall, at its expense, furnish the Artist with a written program of requirements for the project, where applicable, a survey plan of the site and/or building plans or shall reimburse the Artist for the reasonable cost of obtaining such plans, provided the University shall have approved such costs.

4.03. The University shall, at its expense, purchase and install signage to be displayed in the immediate vicinity of the installed Artwork identifying the Artist, the title (if any) of the Artwork, and the year of completion.

**ARTICLE 5.**  
**ARTIST'S STATUTORY RIGHTS OF ATTRIBUTION AND INTEGRITY**

5.01. Subject to the terms of this Agreement and applicable law, including, without limitation, the Federal Visual Rights Act of 1990, as amended (the "Act"),

(i) the Artist shall have the right to claim authorship of the Artwork; and

(ii) if the University causes the distortion, mutilation, or other modification of the Artwork which would be prejudicial to the Artist's honor or reputation, the Artist shall have the right (exercisable upon written notice to the University) to prevent the University from attributing the authorship of the Artwork to the Artist, within ninety (90) days after the University's receipt of such notice of premise, the University shall remove from the site of the Artwork all attributive references to the Artist and shall cease publicly stating the Artist authored or created the Artwork; provided, however, no provision of this Agreement shall obligate the University to alter or remove any such attributive reference printed or published prior to the University's receipt of such notice of exercise.

5.02. Except as permitted by law, including, without limitation the Act, or the terms of this Agreement, without the Artist's consent, the University shall not intentionally distort, mutilate, or otherwise modify the Artwork which would be prejudicial to the Artist's honor or reputation and shall not destroy the Artwork if it is of recognized stature, as that term is used in the Act. If it proposes to alter the site of the Artwork materially and such alteration would affect the intended character and appearance of the Artwork, the University shall consult with the Artist in the planning and execution of any such alteration and shall make a reasonable effort to maintain the integrity of the Artwork.

5.03. The Artist shall not assign or transfer any of the rights set forth in sections 5.01 and 5.02 above. The Artist hereby acknowledges his or her understanding and agreement that the University may remove the Artwork from public display, de-accession the Artwork, or destroy the Artwork. The Artist hereby waives his or her rights under the Act that are inconsistent with the terms of this Agreement.

5.04. Nothing in this Agreement shall preclude any right of the University to remove the Artwork from public display or destroy the Artwork. If it shall at any time decide to destroy the Artwork, the University shall, by notice to the Artist, offer the Artist a reasonable opportunity to recover the Artwork in with accordance the provisions of applicable law.

**ARTICLE 6.  
COPYRIGHT IN THE ARTWORK**

The Artist and the University shall own such rights, titles, and interests, including, without limitation, copyright and other intellectual property rights, in and to the Artwork and all other materials created or developed by Artist pursuant to the terms of this Agreement as provided in Schedule F, which is attached to and hereby incorporated in this Agreement by reference.

**ARTICLE 5.  
ARTIST'S STATUTORY RIGHTS OF ATTRIBUTION AND INTEGRITY**

5.01. Subject to the terms of this Agreement and applicable law, including, without limitation, the Federal Visual Rights Act of 1990, as amended (the "Act"),

(i) the Artist shall have the right to claim authorship of the Artwork;  
and

(ii) if the University causes the distortion, mutilation, or other modification of the Artwork which would be prejudicial to the Artist's honor or reputation, the Artist shall have the right (exercisable upon written notice to the University) to prevent the University from attributing the authorship of the Artwork to the Artist, within ninety (90) days after the University's receipt of such notice of premise, the University shall remove from the site of the Artwork all attributive references to the Artist and shall cease publicly stating the Artist authored or created the Artwork; provided, however, no provision of this Agreement shall obligate the University to alter or remove any such attributive reference printed or published prior to the University's receipt of such notice of exercise.

5.02. Except as permitted by law, including, without limitation the Act, or the terms of this Agreement, without the Artist's consent, the University shall not intentionally distort, mutilate, or otherwise modify the Artwork which would be prejudicial to the Artist's honor or reputation and shall not destroy the Artwork if it is of recognized stature, as that term is used in the Act. If it proposes to alter the site of the Artwork materially and such alteration would affect the intended character and appearance of the Artwork, the University shall consult with the Artist in the planning and execution of any such alteration and shall make a reasonable effort to maintain the integrity of the Artwork.

5.03. The Artist shall not assign or transfer any of the rights set forth in sections 5.01 and 5.02 above. The Artist hereby acknowledges his or her understanding and agreement that the University may remove the Artwork from public display, de-accession the Artwork, or destroy the Artwork. The Artist hereby waives his or her rights under the Act that are inconsistent with the terms of this Agreement.

5.04. Nothing in this Agreement shall preclude any right of the University to remove the Artwork from public display or destroy the Artwork. If it shall at any time decide to destroy the Artwork, the University shall, by notice to the Artist, offer the Artist a reasonable opportunity to recover the Artwork in with accordance the provisions of applicable law.

**ARTICLE 7.  
MAINTENANCE, REPAIR, AND RESTORATION**

7.01. The University shall maintain and protect the Artwork as it reasonably determines. The Artist shall recommend to the University desirable and reasonable maintenance activities for the Artwork by preparing and delivering to the University within thirty (30) days after the date of installation of the Artwork a Maintenance Report, an outline of which is attached hereto as Schedule C. The Maintenance Report shall include, among other items, any recommended cleaning procedures, cleaning processes and materials to avoid, and information such as paint formulas that are necessary or desirable for good maintenance and conservation practices. The University shall use reasonable efforts to solicit the Artist's advice on maintaining and protecting the Artwork.

7.02. The University shall consult with the Artist in all significant matters concerning major repairs and restorations of the Artwork. To the extent practical and allowed by law, the Artist, during the Artist's lifetime, shall have the opportunity to make or supervise major repairs and restorations and shall be paid a fair and reasonable fee for any such services, provided that the University and the Artist shall agree in advance and in writing upon the amount of the Artist's fee for such services. No provision of this section shall limit the University's right or power to repair or restore the Artwork. All repairs and restorations shall be made in accordance with recognized principles of conservation as determined by the University.

**ARTICLE 8.  
INSURANCE; DAMAGE TO THE ARTWORK**

8.01. Throughout the term of this Agreement and for this project, the Artist and his or her subcontractor(s) shall purchase and maintain at his or her sole expense, the following insurance coverages:

- (i) property insurance (\$1,000,000 coverage limit); and
- (ii) comprehensive general liability insurance (\$1,000,000 coverage limit).

The Artist shall deliver to the University a certificate(s) evidencing such insurance. All such insurance shall be primary insurance without right of contribution by an insurance carried by the University. The University shall have the right (exercisable upon notice to the Artist) to require the Artist, at the Artist's sole expense, to procure and maintain additional insurance coverages. Within ten (10) days of his or her receipt of such notice for additional insurance, the Artist shall deliver to the University evidence of such insurance.



8.02. The Artist shall take all reasonable steps to ensure the Artwork, whether in preliminary, conceptual, work-in-progress, or final form, is protected from loss or damage by fire or any other casualty. If the Artwork in any of the following forms is damaged or destroyed, the Artist shall inform the University of the occurrence within 24 hours of the Artist first learning of the occurrence, and shall promptly repair the Artwork, at his or her sole expense, to its condition immediately prior to the occurrence.

## **ARTICLE 9. INDEMNITY**

9.01. The Artist shall defend, hold harmless and indemnify the University and each of its Regents, officers, employees, and agents (each of which shall be referred to as an "Indemnatee") from and against any and all claims, actions, judgments, damages, liabilities, and expenses (including, but not limited to, reasonable attorneys' and investigative fees) imposed upon, incurred by or asserted against an Indemnatee arising from or relating to, directly or indirectly, the negotiation, execution, performance or breach of this Agreement by Artist or Artist's employees or agents and any transaction contemplated hereby, including, but not limited to, the acts or omissions of the Artist and his or her employees or agents; provided, however, that the Artist shall not be liable under such indemnity for any portion of such claims, actions, judgments, damages, liabilities, or expenses resulting from an Indemnatee's intentional, willful or wanton acts.

The Artist shall reimburse the University for all costs and expenses (including, but not limited to, reasonable attorneys' and investigative fees) incurred by the University to enforce any term, condition or covenant of this Agreement, whether or not the University commences a suit to enforce such term, condition or covenant.

9.02. No provision of this Article shall to bar any legal remedies the Artist may have to redress the University's failure to perform its obligations under to this Agreement.

9.03. The duties and obligations imposed by his Agreement upon the Artist and the University and the rights and remedies available thereunder shall be in addition to and not a limitation of any duties, obligations, rights, and remedies otherwise imposed or available by law.

**ARTICLE 10.  
LIABILITY LIMITATION**

10.01. Notwithstanding any provision of this Agreement to the contrary, no party shall recover from a party to this Agreement in an action, of whatever nature, in contract or tort, any consequential or incidental damages, lost profits, or any type of expectancy damages.

10.02. Notwithstanding any provision of this Agreement to the contrary, any damage award to a party on account of a party's breach of this Agreement, with the exception of the Artist's duty under Article 8 to procure and maintain insurance, shall not exceed an amount equal to the sum of the Phase I Fee and the Phase II Fee.

**ARTICLE 11.  
WARRANTIES**

11.01. The Artist warrants that as of the date of installation of the Artwork and for a period of two (2) years thereafter, the Artwork is free of defects of manufacture or design. In the event of a suspected breach of the warranty in this section 11.01, the University shall notify the Artist of such defect, and Artist, at his or her sole expense, shall promptly commence repairs to or replacement of, as the Artist and the University shall mutually agree, the Artwork. The University and the Artist shall mutually agree upon any plan to restore the Artwork.

11.02. The Artist further warrants that the Artwork is the original product of the Artist's creative efforts and that no person has or can have a copyrightable or ownership interest in the Artwork or in the other copyrightable works, if any created by Artist pursuant to the terms of this Agreement or has or can have any rights of attribution or of integrity as provided under the Act. In the event of a suspected breach of the warranty in this section 11.02, the party learning of such suspected breach shall promptly notify the other party thereof, and thereafter, the Artist, at his or her sole expense, shall take all steps necessary or desirable, in the University's reasonable opinion, (i) to assign to the University all the copyright, ownership, and other rights, titles, and interests and in and to the Artwork or other copyrightable works claimed or asserted by such person, and (ii) to cause such person to agree to the terms of this Agreement, including, without limitation, the terms of Article 5.

11.03. The Artist further warrants that the Artwork as installed shall conform in all material respects with the conceptual design of the Artwork developed in Phase I and as amended from time to time by the University and the Artist. In the event of the suspected breach of the warranty in this section 11.03, the University shall notify the Artist of such non-conformance, and the Artist, at his or her sole expense, shall promptly commence alterations to the Artwork necessary or desirable to cause the Artwork to so conform to the conceptual design.

11.04. No provision of this Article 11 shall limit any other right, at law or in equity, of the University to enforce the terms of this section or to seek compensation for the breach of the warranties in this Article.

## **ARTICLE 12. TERMINATION**

12.01. A party may terminate this Agreement, with or without cause, by delivering to the either party written notice of termination at least thirty (30) days prior to the date of termination.

12.02. This Agreement shall terminate immediately upon the Artist's death. The Artist shall cause the Artist's executor to so notify the University in writing within ten (10) days of the date of death. The Artist shall take all reasonable steps necessary to notify his or her executor of the terms of this Agreement.

12.03. If the Artist fails substantially to perform, when due, a material duty, obligation, or service required to be performed by Artist under this Agreement, the University shall deliver to the Artist a written notice of default, and such notice shall describe the nature of the Artist's failure and shall grant the Artist seven (7) days to correct such failure to the University's satisfaction. If the Artist fails to correct the failure by the end of the seven day period, the University may terminate this Agreement by delivering to the Artist written notice of termination. Termination under this Article shall be effective upon delivery to the Artist.

12.04. If the University fails substantially to perform, when due, a material duty, obligation, or service required to be performed by the University under this Agreement, the Artist shall deliver to the University a written notice of default, and such notice shall describe the nature of the University's failure and shall grant the University seven (7) days to correct such failure to the Artist's satisfaction. If the University fails to correct the failure by the end of the seven day period, the Artist may terminate this Agreement by delivering to the University written notice of termination. Termination under this section shall be effective upon delivery to the University.

12.05. Within ninety (90) days after the date of termination of this Agreement, the University shall pay the Artist that portion of the Phase I Fee or Phase II Fee attributable to the portion of the Work the Artist performed prior to the date of termination, less the aggregate amount of the Phase I Fee and Phase II Fee previously paid by the University to the Artist; provided, however, if the University pursuant to section 12.03 or if the Artist pursuant to section 12.04 terminates this Agreement, such party shall retain its, his or her rights to maintain an action to enforce the performance or to compensation for the breach of this Agreement.

12.06. Within thirty (30) days after the date of termination of this Agreement, the Artist or the Artist's executor shall deliver to the University, at the University's expense, the Artwork in whatever form it exists at the time of termination, which shall then



13.04. **Audit Rights.** The University shall have the right (exercisable upon reasonable notice to the Artist or his or her employees and agents, as the case may be) to inspect and photocopy or otherwise reproduce the accounting books and records relating to the performance of this Agreement by the Artist or his or her employees or agents, including, but not limited to, records evidencing the expenses incurred by the Artist or his or her employees or agents to perform the duties hereunder. Upon the University's written request, the Artist shall deliver, or cause his or her employees or agents to deliver, such books and records to the University.

13.05. **Record Retention.** For a period of three (3) years commencing on the date of termination of this Agreement, the Artist shall retain, and shall require his or her employees or agents to retain, all accounting records and books of account related to this Agreement; provided, however, upon the University's written request, the Artist or his or her employees or agents shall retain, at his or her expense, all such records and books of account relating to any litigation or claim arising out of the performance of this Agreement or to costs or expenses of this Agreement, until such litigation, claim, cost or expense is resolved.

13.06. **Parties In Interest.** This Agreement shall be bind and inure to the benefit of parties hereto and their respective heirs, legal and personal representatives, successors, assigns, transferees or donees, as the case may be.

13.07. **Amendment and Waiver.** This Agreement may be amended from time to time only by a written instrument signed by each of the parties hereto. No waiver by any party of any default or nonperformance hereunder shall be deemed a waiver of any subsequent default or nonperformance.

13.08. **Entire Agreement; No Third Party Beneficiaries.** This Agreement (including all attachments, schedules and amendments hereto) is intended by the parties as the final and binding expression of their contract and agreement and as the complete and exclusive statement of the terms thereof. This Agreement cancels, supersedes and revokes all prior negotiations, representations and agreements, whether oral or written, relating to the subject matter hereof.

No provision of this Agreement, express or implied, is intended to confer upon any person other than the parties hereto any rights, remedies, obligations, or liabilities hereunder.

13.09. **Enforceability.** If a court of competent jurisdiction adjudges a provision of this Agreement unenforceable, invalid or void, such determination shall not impair the enforceability of any of the remaining provisions hereof and such provisions shall remain in full force and effect.

13.10. **Construction.** The headings preceding and labeling the paragraphs of this Agreement are for the purpose of identification only and shall not in any event be employed or used for the purpose of construction or interpretation of any portion of this Agreement. As used herein and where necessary, the singular shall include the

plural and vice versa, and masculine, feminine and neuter expressions shall be interchangeable.

13.11. **Applicable Law.** The internal laws of the state of Minnesota shall govern the validity, construction and enforceability of this Agreement, without giving effect to the conflict of laws principles thereof.

13.12. **Permits.** The Artist certifies that as of the date of this Agreement he or she possess all governmental licenses, permits, and certificates necessary to perform this Agreement (collectively, the "Permits"). Throughout the term of this Agreement, the Artist shall maintain each Permit in full force and effect.

13.13. **Equal Employment Opportunity.** The Artist shall comply with all applicable laws governing the assurance of equal employment opportunity and shall not discriminate in violation of law against any employee or applicant for employment in the performance of this Agreement with respect to hire, tenure, terms, conditions, or privileges of employment or in any matter directly or indirectly related to employment with regard to race, color, religion, national origin, gender, age, marital status, disability, public assistance status, veteran status, or sexual orientation.

13.14. **Relationship of Parties.** The Artist agrees to perform all work under this Agreement as an independent contractor, and not as an agent or employee of, the University. The Artist shall have not right or power, and shall not, act for or on behalf of the University. The Artist shall not offer to enter into or enter into any agreement on behalf of the University. Any person or firm engaged by the Artist to perform work or provide services required under this Agreement to be performed or provided by the Artist shall not be deemed an employee of the University.

13.15. **Notice of the Artist's Address.** The Artist shall notify the University of any changes in his or her primary business address within thirty (30) days of the change.

13.16. **Assignment.** The Artist shall not assign any right or delegate any duty under this Agreement without the University's prior written consent; provided, however, upon notice to the University, the Artist may engage a person or firm to manufacture, deliver or install the Artwork. The Artist shall not engage or allow any person or firm to design the Artwork. An assignment or delegation made in violation of this section shall be null and void.

13.17. **Survival.** The following provisions of this Agreement shall survive and be in full force and effect after the termination of this Agreement, for whatever cause: Articles 2, 5, 6, 7, 9, 10, and 11 and sections 13.02, 13.03, 13.04, 13.05, 13.14, and 13.17.

IN WITNESS WHEREOF, the University and the Artist entered into this Agreement as of the date first above written.

**REGENTS OF THE UNIVERSITY OF MINNESOTA**

Recommended for Approval:

By: \_\_\_\_\_  
Lyndel I. King, Director  
Frederick R. Weisman Art Museum

Date: \_\_\_\_\_

Approved:

By: \_\_\_\_\_  
Susan J. Markham, Associate Vice President  
Facilities Management

Date: \_\_\_\_\_

**ARTIST**

By: \_\_\_\_\_  
(signature)

\_\_\_\_\_  
Name Typed/Printed

SSN: \_\_\_\_\_

Date: \_\_\_\_\_

## SCHEDULE A

### SCOPE OF WORK - Phase I

This Schedule A is a part of and incorporated by reference in that certain Public Art on Campus Agreement between the University and the Artist. Unless otherwise defined in this Schedule A, the capitalized terms used in this Schedule A shall have the meanings ascribed to them in the Public Art on Campus Agreement.

A. As provided in this Schedule A, the Artist shall develop a preliminary and then a conceptual proposal for the Artwork.

B. As needed throughout the term of this Agreement, the Artist shall consult and meet with various individuals/groups, which shall include, but not be limited to, the following: the Public Art on Campus committee, the building or user group Artwork committee, the responsible project manager from the Department of Facilities Management, and the Public Art on Campus Coordinator.

C. The Phase I Work shall be as follows:

1. Preliminary Development Stage (from \_\_\_\_\_ through \_\_\_\_\_, 19\_\_).

a. The Preliminary Development Stage shall be completed by: \_\_\_\_\_.

b. The Artist shall conduct independent research, interviews, etc. necessary to develop preliminary ideas and designs for the Artwork. These ideas and designs shall be appropriately communicated to the University for review, recommendations, and approval.

c. For the first design review, the Artist shall make available the following elements:

- the Artist must indicate the area where the Artwork will be located;
- the Artist must indicate the basic conceptual approach to be adopted in creating the Artwork, using, among other items, drawings and illustrations, but excluding models, as appropriate to express the concept; and
- the Artist must indicate the materials of which the Artwork is likely to be made.

2. Conceptual Development Stage (from \_\_\_\_\_ through \_\_\_\_\_, 19\_\_).



a. Based upon the University's feedback and approval of the preliminary Artwork ideas and designs, the Artist shall develop for presentation to and approval by the University a conceptual design of the Artwork.

b. The Conceptual Development Stage shall be completed by:\_\_\_\_  
\_\_\_\_\_.

c. The conceptual design of the Artwork shall include, at a minimum, the following:

- the proposed placement location of the Artwork on the project site;
- drawings/illustrations/models as appropriate to express the conceptual idea(s) and design(s);
- a one-page written description of the Artwork that describes the Artist's concepts and intent and how the Artwork relates to or reflects the unique conceptual or functional purpose of the facility and/or the character of the community;
- a preliminary description of, and an estimate of the cost of, the proposed materials, along with a description of their appropriateness for the project site;
- if requested by the University pursuant to section 2.04 of the Agreement, a list of goods the University will purchase directly from the seller;
- a written statement regarding the anticipated maintenance for the proposed Artwork as well as any public safety issues (see the Maintenance Report, a copy of which is attached to the Agreement as Schedule C); and
- a preliminary estimate of cost to implement (design, fabricate, deliver and install) the Artwork with a 10% contingency.

d. The University shall evaluate the Artwork on the basis of the following criteria:

- strength and quality of the artistic concept and design;
- the degree to which the proposed Artwork successfully reflects the unique conceptual and functional purpose of the facility and/or the site;

- the degree to which the Artwork concepts or execution involves or reflects the University community;
- the degree to which the Artwork successfully addresses any technical or functional requirements;
- feasibility issues in regard to budget, materials, maintenance, security and fabrication/installation and deinstallation;
- the durability of the Artwork and the anticipated costs of maintenance and public safety; and
- such other criterion as the University shall consider.

The Artwork will be reviewed for technical feasibility in relation to the design and project schedule by a facilitates management project manager and a licensed structural engineer. If necessary, the Artist shall modify the design and/or construction of the Artwork based on the technical and engineering review.

e. The University may condition its acceptance of the conceptual form of the Artwork upon changes in the design.

f. The University will make final approval by \_\_\_\_\_, 19\_\_\_\_.

g. The University reserves the right to exhibit proposal materials at its discretion. All proposal materials will be held by the University for purposes of display for a period of time agreed upon by the Artist. Proposal materials will be returned to the Artist.

D. The University shall pay the Phase I Fee in the following installments:

<u>Payment Date</u>	<u>Amount</u>
Within 30 days after the execution and delivery of this Agreement	\$ _____
Within 30 days after the completion of the Preliminary Development Stage	\$ _____
Within 30 days after the completion of the Conceptual Development Stage	\$ _____
TOTAL:	\$ _____

## SCHEDULE B

### SCOPE OF WORK - Phase II

This Schedule B is a part of and incorporated by reference in that certain Public Art on Campus Agreement between the University and the Artist. Unless otherwise defined in this Schedule B, the capitalized terms used in this Schedule B shall have the meanings ascribed to them in the Public Art on Campus Agreement.

A. To commence the Phase II Work, the University shall deliver to the Artist a Notice to Proceed.

B. As needed throughout the term of this Agreement, the Artist shall consult and meet with various individuals/groups, which shall include, but not be limited to, the following: the Public Art on Campus committee, the building or user group Artwork committee, the responsible project manager from the Department of Facilities Management, and the Public Art on Campus Coordinator.

C. The Phase II Work shall be as follows:

- The Artwork shall consist of the following elements: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
- The Artist shall be responsible for completing the manufacture, creation, delivery and installation of the Artwork in accordance with the agreed upon schedule and the terms of the Agreement. The Artist will seek out regular updates from the Public Art on Campus Coordinator's office on scheduling information and deadlines relevant to his or her art project.
- The Artist shall review the proposed site for the Artwork and shall take all steps necessary and desirable to prepare the site for the timely installation of the Artwork, including, but not limited to landscaping, footings, plumbing, electricity or lighting as are necessary for the presentation or activation of the Artwork. The Artist shall pay all costs and expenses to prepare the site. The Artist and the University shall mutually agree upon the site preparation plan.
- The Artist shall coordinate with, and seek the approval of, the University for all activities necessary for implementation of on site fabrication, delivery and installation.

- The Artist must comply with all provisions provided by the Department of Facilities Management for working in the project areas.
- The Artist shall be responsible for securing adequate protection of the public whenever work must be done on University property by erecting appropriate barricades, installing warning signs, etc.

D. The University will provide site support and preparation in accordance with the requirements of the Artwork as identified by the Artist in the Artist's proposal. This shall include, but not be limited to, walls, electrical service and substrate materials.

E. In the event that the Artist must make changes to the design during construction, the Artist shall present any significant changes in aesthetics, the scope, design, character or medium of the project to the University for its approval. For changes involving materials, structure or installation methods the Department of Facilities Management must approve those changes in writing.

F. In the event that the University must make changes during project design and/or implementation to the designated site the Artist will be notified immediately of the proposed changes. The Department of Facilities Management and the Public Art on Campus Coordinator's office will work with the Artist to find means of mitigating any negative impacts to the art project.

G. The Artist will provide information to the University regarding materials and finishes to be used in the creation of the Artwork(s) as described in the Artwork Specifications, a copy of which is attached to the Agreement as Schedule D. Substitutions may be requested by the University in the event that the proposed materials do not comply with health and safety issues or fire codes.

H. After installation of the Artwork, but prior to Final Payment, the Artist must submit the following to the University:

1. twenty (20) slides of the Artwork during production for archival records;
2. four (4) 8" x 10" glossy, black and white photographs of the finished Artwork as documentation;
3. a written technical description of the Artwork (see the Artwork Specifications, Schedule D); and
4. maintenance recommended for the Artwork (see the Maintenance Report, Schedule C).

I. Compensation - Phase II

1. Prior to issuing the first payment for the Phase II Work, the Artist shall attend one meeting with the Public Art on Campus Coordinator and a project manager from the Department of Facilities Management to review specifications, art project scope, installation methods, preliminary project schedule, preliminary schedule of the Artist's deliverables, and coordination issues.
  
2. The University shall pay the Phase II Fee in the following installments:
  - a. \$\_\_\_\_\_ upon completion of the following elements:

\_\_\_\_\_

\_\_\_\_\_