

[Museum Name]
**Agreement
With**

THIS AGREEMENT, is entered into by and between the **Museum**, a New York not-for-profit corporation exempt from taxation under 501(c)(3) of the Internal Revenue Code, located at ***, and **Guest Curator** ("Guest Curator"), located at ***

1. **Recitals.**

1.1 WHEREAS, MUSEUM desires to advance its mission and tax-exempt purposes by producing the art exhibition *** *scheduled for* *** described in the Exhibition Précis (hereinafter "Exhibition"); and

1.2 WHEREAS, Guest Curator has special skills, ability, and experience that would be useful to MUSEUM in this project; and

1.3 WHEREAS, MUSEUM wishes to retain the services of Guest Curator and Guest Curator is willing to provide such services pursuant to the terms and conditions hereinafter set forth,

1.4 NOW, THEREFORE, in consideration of the mutual promises and covenants herein contained, the parties hereto agree as follows:

2. **Agreed Services.** Guest Curator and MUSEUM agree to the allocation of duties and responsibilities set forth below, in connection with the Exhibition *** agrees to perform the services assigned to Guest Curator ("the Work"), all to the full and reasonable satisfaction of MUSEUM.

2.1 Guest Curator will work in collaboration with the MUSEUM staff (Associate Curator or Director) to carry out the work described in Guest Curator's précis (attached and referred to herein as the "précis"). While MUSEUM expects that all Exhibition design and installation decisions (including any substitutions that may appear necessary) will be made collaboratively by MUSEUM and Guest Curator, the Director shall have final authority over all such decisions.

2.3 MUSEUM will select and retain a vendor to design all related graphic materials, including didactics and publicity and advertising. Guest Curator will meet with the designer as necessary to explain Exhibition concepts and other relevant matters, but the Director shall have final authority over all design decisions.

2.4 MUSEUM will have sole responsibility for engaging and supervising all installation designers, graphic designers, art handlers, installers, fabricators, and any other contractors necessary for producing the Exhibition. All communication by Guest Curator with Exhibition contractors must be coordinated in advance with MUSEUM staff.

2.5 The parties understand and agree that Exhibition design and installation must comply fully with applicable insurance policies and fire code standards, as specified by MUSEUM.

2.6 Upon approval by MUSEUM of the list of recommended objects identified by Guest Curator in the Working Checklist, Guest Curator will investigate object availability, negotiate loan terms in conjunction with MUSEUM, and make the final selection of objects to be included in the Exhibition.

3 **Compensation and Reimbursement.** MUSEUM shall pay Guest Curator the total sum of \$*** ("Contract Sum"), plus reimbursement of approved disbursements, upon the terms and conditions set forth below:

3.1. MUSEUM shall pay Guest Curator 1/3 of the Contract Sum immediately upon signing the contract and 1/3 on ** or upon submission of all text, and the remainder upon the timely and successful opening of the exhibition.

KAycox Page 2 8/21/14

3.2. MUSEUM will reimburse Guest Curator for out of pocket travel and other expenses related to the completion of the Work, so long as (1) Guest Curator submits adequate and timely documentation of each expense to MUSEUM, and (2) MUSEUM **pre-approves** such expenses in writing. All travel expenses must comply with the MUSEUM Corporate Travel Policy.

4. **Term and Termination.** This Agreement will commence upon execution of this Agreement by both parties, and will terminate when the Work is completed to the reasonable satisfaction of MUSEUM, or when terminated sooner by MUSEUM pursuant to this Paragraph. At any time, MUSEUM may terminate this Agreement upon 30 days advance notice in writing without cause. This Agreement shall terminate immediately upon notice to Guest Curator in the event of (1) Guest Curator's fraud, felonious conduct or dishonesty; (2) Guest Curator's willful misconduct or negligence in the performance of its duties hereunder; (3) Guest Curator's failure to perform the Work in a professional manner and to the reasonable satisfaction of MUSEUM; or (4) Guest Curator's breach of a material provision of this Agreement. This Agreement shall terminate automatically if Guest Curator is declared bankrupt or makes an assignment for the benefit of its creditors, or takes advantage of any state or federal insolvency law, or files a petition for an involuntary or voluntary reorganization under federal bankruptcy law, or appoints a receiver to conduct Guest Curator's business or discontinues its business, sells its business, or merges its business into that of another party or company. Upon termination, neither party shall have any further liabilities or obligations to the other, except that each party shall continue to be bound by the requirements Paragraph 10 regarding copyright ownership, Paragraph 11 regarding indemnification, Paragraph 12 regarding Original Works Representation, and Paragraph 14 regarding conciliation. Also, MUSEUM shall pay Guest Curator for Work properly performed to the reasonable satisfaction of MUSEUM and/or for expenses properly incurred and documented prior to termination, and Guest Curator shall refund any monies paid but unearned hereunder.

5. **Independent Contractor.** Both MUSEUM and Guest Curator agree that Guest Curator will act as an independent contractor in the performance of services pursuant to this Agreement, not as an employee or agent of MUSEUM. Accordingly, Guest Curator shall be responsible for all technical, secretarial, administrative, and office support and equipment in fulfilling all obligations under this Agreement. Guest Curator shall make no representations as an agent or employee of MUSEUM, and shall have no authority to bind MUSEUM or incur any liability or obligation on behalf of MUSEUM unless specifically authorized in writing to do so by MUSEUM. Guest Curator shall be responsible for maintaining proper insurance for the Work and for compliance with all federal, state, and local laws and regulations to which Guest Curator is subject, including but not limited to laws and regulations relating to payment of taxes arising out of Guest Curator's activities in accordance with this Agreement. Guest Curator acknowledges and agrees that this Agreement does not give or extend to Guest Curator any rights or benefits offered by MUSEUM to its employees.

6. **No Assignment.** This Agreement is entered by MUSEUM because of the special knowledge and expertise of Guest Curator. Accordingly, Guest Curator may not transfer or assign any rights nor delegate any duties under this Agreement except as authorized in writing by MUSEUM. Any unauthorized attempt at assignment or delegation shall be void.

7. **Conflicts of Interest.** Guest Curator warrants that s/he is under no obligation to any other individual or entity that in any way conflicts with Guest Curator's responsibilities to MUSEUM under this Agreement or that conflicts with its ability to perform all Work in a timely and workman-like manner, and that Guest Curator is not being remunerated by any third party for any aspect of the Work that it will perform under this Agreement.

8. **Confidential Information.** Guest Curator agrees to maintain the confidentiality of all documents and information that MUSEUM considers to be confidential, secret, and/or proprietary ("Confidential Information") received or arising during the term of or in connection with this Agreement. Confidential Information of MUSEUM shall be used by Guest Curator only in connection with services rendered under this Agreement. Confidential Information does not include information that (1) is in or becomes in the public domain without violation of this Agreement by Guest Curator, (2) is already rightfully in the possession of Guest Curator, as

evidenced by written documents, prior to the disclosure thereof by MUSEUM, or (3) is rightfully received from a third entity having no obligation to MUSEUM and without violation of this Agreement by Guest Curator. Confidential Information shall include, but not be limited to, all financial information, personal information, and product and program development information. Upon termination of this Agreement for any reason, Guest Curator shall immediately return to MUSEUM all files, reports, data, documents, notes, or other records or material of any kind (including electronic records) and all copies, whether in paper or electronic form, concerning or pertaining to MUSEUM or any of its affiliates and obtained in connection with, or in the course of providing the services or completing the Work, and shall make no further use of such Confidential Information. The parties agree not to disclose the content or the existence of this Agreement except by mutual consent. This Paragraph shall survive termination of this Agreement.

9. **Copyright Ownership.** Guest Curator agrees that MUSEUM will own all rights, title, ownership, and interest (including all copyrights, publication and display rights, and all rights of electronic communication and transmission), of any kind in all Work or works prepared and delivered by Guest Curator under this Agreement, including panels, banners, layouts, manuscripts, ideas, programs, software and any other works that are developed or created during the term of this Agreement or pursuant to this Agreement, whether written, photographic, draft, final or in any other form, whether copyrightable or not, are "works for hire," as that term is defined in Section 101 of the Copyright Act of 1976, as amended, and shall be the sole property of MUSEUM. To the extent that title to and/or copyright in any such work may not, by operation of law, vest in MUSEUM, or if for any reason any work is not deemed "work made for hire," Guest Curator hereby agrees that all such rights, and all other United States and international copyrights, patent rights, trademark and trade dress rights, trade secret rights, and all other United States and international intellectual property rights, are hereby automatically conveyed, transferred, and assigned to MUSEUM as of the creation of such works, and that such conveyance, transfer, or assignment shall include any renewal or extended terms now or hereafter authorized by law. Further, Guest Curator agrees to be bound by provisions governing ownership of copyrighted works that may be included in MUSEUM's contracts with third parties, and pursuant to which Guest Curator may provide the works. MUSEUM may use such works in any manner it deems appropriate. Nothing in this Agreement shall be deemed to require MUSEUM to publish or use the works Guest Curator develops or creates. This provision shall survive the termination of this Agreement.

10. **Indemnification.** Guest Curator shall indemnify and hold MUSEUM harmless from any and all liability that MUSEUM may incur, including attorney's fees or other legal expenses, arising directly or indirectly from any act or omission of Guest Curator or Guest Curator's employees or agents. Guest Curator will reimburse MUSEUM for any expenses MUSEUM may incur in connection with any such action or proceeding. This Paragraph shall survive termination of this Agreement.

11. **Original Works Representation.** Guest Curator warrants that any and all copyrightable works created pursuant to this Agreement are original or fully owned by Guest Curator and previously have not been used or published in whole or in part, and that such works and other displayed works do not infringe upon any common law or statutory copyright, proprietary right, or any other right whatsoever, and that they contain no matter that is libelous or otherwise in contravention of law. This provision shall survive termination of this Agreement.

12. **Entire Agreement, Amendment, Severability, and Renewal.** This Agreement is the entire Agreement between the parties, and supercedes any prior oral or written agreements, understanding or commitments. This Agreement may not be amended without prior written consent of the parties. Should any part, term or provision of this Agreement be declared invalid, void or unenforceable, all remaining parts, terms and provisions hereof shall remain in full force and effect and shall in no way be invalidated, impaired or affected thereby. This Agreement may be renewed upon such terms and conditions as are mutually agreed to in writing by the parties.

13. **Dispute Resolution.** MUSEUM and Guest Curator agree that if they are ever unable to resolve a dispute between them, they mutually agree to resolve the dispute without resort to civil litigation. Any such dispute or conflict will be submitted to mediation and, if mediation is unsuccessful, then to arbitration under the applicable rules of the American Arbitration Association, or such other alternative dispute resolution entity or person as the parties may from time to time mutually agree upon in writing, and governed by the laws of New York. The decision of the arbitrator(s) shall be final, non-appealable, and enforceable in any court of competent jurisdiction. This method shall be the sole remedy for any controversy or claim arising out of this Agreement and the parties expressly waive their respective right to file a lawsuit in any civil court against one another for such disputes,

except to enforce an arbitration decision. The parties agree that any claim or dispute hereunder shall expire if not brought within one (1) year of arising. This provision shall survive termination of this Agreement.

14. **Governing Law.** This Agreement shall be governed by the laws of the State of New York.

15. **Notices.** Any notices to be given under this Agreement shall be deemed effective upon receipt of confirmed facsimile or confirmed express delivery, or on the third day after mailing by certified mail, return receipt requested. Notices shall be delivered, transmitted, or mailed to the addresses set forth in the first paragraph of the Agreement, unless a party has notified the other party in writing of a new address.

16. **Force Majeure.** If either party is prevented from performing its obligations under any provision of this Agreement by reason of any war, strike, fire, act of God, force majeure, or other event or condition beyond its control, such failure to perform shall be excused and shall not be deemed a breach of this Agreement.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date set forth above.

MUSEUM

By: _____
*** Date
Director

By: _____
*****, Guest Curator Date

For Reference Only