

**Agreement XXXXXX OS between
San Diego County Regional Airport Authority
and
ARTIST NAME
for
Performing Arts Residency Program**

SAMPLE AGREEMENT DISCLAIMER: THIS DOCUMENT IS PROVIDED FOR INFORMATIONAL AND ILLUSTRATIVE PURPOSES ONLY. IT IS NOT A BINDING AGREEMENT OR AN OFFER OF CONTRACT. THE TERMS, CONDITIONS, CLAUSES, REQUIREMENTS, AND OBLIGATIONS INCLUDED IN ANY FINAL PERFORMING ARTS RESIDENCY AGREEMENT MAY DIFFER AND ARE SUBJECT TO REVIEW, REVISION, AND APPROVAL BY THE SAN DIEGO COUNTY REGIONAL AIRPORT AUTHORITY. PARTICIPATING ARTISTS AND GROUPS SHOULD RELY ONLY ON THE FINAL AGREEMENT ISSUED FOR THEIR SPECIFIC RESIDENCY.

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SAN DIEGO COUNTY REGIONAL AIRPORT AUTHORITY

Agreement for Performance Art Work

This Agreement is made by and between the SAN DIEGO COUNTY REGIONAL AIRPORT AUTHORITY, and **ARTIST NAME**, a 501(c)3 non-profit (hereinafter "Artist"). The Parties agree:

1. **DEFINITIONS:** As used within this Agreement, the following terms shall have the meanings as set forth below:

Accounting Records: any and all documents relating to invoices, costs, payment, settlement, or supporting documentation of Artist relating to this Agreement.

Agreement: this Agreement for
Performance Art Work including all exhibits and attachments.

Airport: the San Diego International Airport.

Alter or Alteration: with respect to the Artwork, to alter, repair, modify, remove, relocate, sell, dispose of, distort, destroy, mutilate, or deface.

Artist: **ARTIST NAME** and any employees, agents, or subcontractors of Artist. Where there is more than one Artist, all Artists shall be referred to collectively as "Artist." If Artist is comprised of two or more individual persons or entities, each individual person or entity shall be jointly and severally responsible for satisfying Artist's obligations under this Agreement, and each individual person or entity shall be liable for the acts and omissions of every other individual person or entity comprising Artist.

Artwork: the work of art designed by Artist for the Site under the terms of this Agreement, as described and defined in the Scope of Work (See Exhibit A).

Audit Period: the period of time from commencement of the term of the Agreement to the third anniversary of the Authority's final payment under the terms of this Agreement.

Authority: the San Diego County Regional Airport Authority, a local governmental entity of regional government, acting through its President/CEO for purposes of this Agreement.

Compensation: all monetary consideration provided Artist pursuant to this Agreement including fees and Reimbursable Expenses.

Design Professional: any of the following professions:

- *Architects* licensed pursuant to Chapter 3 of Division 3 of the Business and Professions Code, and a business entity offering architectural services in accordance with that chapter;
- *Landscape Architects* licensed pursuant to Chapter 3.5 of Division 3 of the Business and Professions Code, and a business entity offering landscape architect services in accordance with that chapter;
- *Professional Engineers* registered pursuant to Chapter 7 of Division 3 of the Business and Professions Code, and a business entity offering professional engineering services in accordance with that chapter; and
- *Professional Land Surveyors* licensed pursuant to Chapter 15 of Division 3 of the Business and Professions Code, and a business entity offering professional land surveying services in accordance with that chapter.

Expenses: expenditures made by Artist in the necessary and reasonable performance of this Agreement. Expenses include costs for travel, facilities, equipment, personnel, tools, and other materials. See "Reimbursable Expenses" below.

Non-design Professional: all professions other than Design Professionals as defined above.

Parties: the Authority and Artist collectively.

President/CEO: the President/CEO of San Diego County Regional Airport Authority or his/her designee.

Proposal: the document prepared by Artist and approved by Authority that describes the Artist's proposed visual, aesthetic, and artistic intent and design of the Artwork, and as further defined in Exhibit A.

Proprietary Information: all confidential, personal, proprietary and trade secret information and materials of the Authority, or of its Board, officers, employees, or of its suppliers, vendors or customers. Proprietary Information includes, without limitation, any: (a) information, ideas or materials of a technical or creative nature, such as designs and specifications, computer source and object code, and other materials and concepts relating to the Authority's intellectual property rights; (b) information, ideas or materials of a business nature, such as non-public financial information; information regarding profits, costs, marketing, purchasing, sales, customers, suppliers, contract terms, employees and salaries; development plans; business and financial plans and forecasts; (c) all personal property, including, without limitation, all books, manuals, records, reports, notes, contracts, lists, blueprints and other documents or materials, or copies thereof, received by Artist in the course of Artist's rendering of the Services to the Authority, including, without limitation, records and any other materials pertaining to the Work Product; and (d) information, ideas and opinions of a personal nature, such as the thoughts, impressions, personal histories and goals of Authority employees; and (e) the terms and conditions of this Agreement.

Reimbursable Expenses: those Expenses which are identified in Exhibit B to this Agreement as reimbursable by the Authority.

Services: all actions, assistance, and deliverables described in Exhibit A to this Agreement.

Site: Airport and/or any other area as designated by the Authority.

TSA: the Transportation Security Administration.

Work: the work of Artist pertaining to providing the Authority with the Services as required under this Agreement. Unless otherwise specified, Work shall include the performance of the Artwork.

Work Product: all documents, data, reports, drawings, specifications, and other works, including copies prepared by Artist pursuant to this Agreement, whether complete or incomplete and whether in oral, written, graphic, or electronic form.

2. **TERM**: The term of this Agreement commences **DATE** and ends **DATE** unless sooner terminated pursuant to the terms of this Agreement.

3. **SCOPE OF WORK**:

A. **Services**: Subject to the terms and conditions set forth in this Agreement, Artist shall provide the Authority with the Services as set forth in Exhibit A entitled "Scope of Work", which is attached to and incorporated in this Agreement.

B. **Other Services**: During the term of this Agreement, Artist shall provide such additional services to which the Parties mutually may agree in writing. Additional services will be subject to limitations specified in Authority policies.

4. **COMPENSATION:**

A. **General:** Authority shall pay Artist for Services provided in accordance with the terms set forth in Exhibit B entitled "Compensation", which is attached to and incorporated in this Agreement. Authority shall make good faith efforts to pay Artist all undisputed amounts within thirty days of Authority's approval of Artist's invoice submitted in accordance with Section 5 of this Agreement. The payments specified in Exhibit B shall be the only compensation to which Artist shall be entitled under this Agreement.

B. **Expenses:** Unless expressly provided otherwise in Exhibit B, Artist shall bear all expenses required to perform Services pursuant to this Agreement.

5. **INVOICES:** Artist shall submit monthly invoices, or as otherwise directed by Authority, describing the Services and Reimbursable Expenses for which payment is sought in accordance with Sections 3 and 4 of this Agreement. Invoices shall be in a form acceptable to the Authority and include the following:

A. **Documentation of Reimbursable Expenses:**

- 1) Reimbursable Expenses, if any, for which Artist may seek reimbursement are set forth specifically in Exhibit B.
- 2) Reimbursable Expenses under \$25.00: Artist shall attempt in good faith to attach to each invoice all necessary documentation and receipts to support expenses under \$25.00
- 3) Reimbursable Expenses over \$25.00: Artist shall attach to each invoice detailed, itemized receipts to support expenses over \$25.00. In no event will the Authority reimburse Artist for expenses over \$25.00 that are not supported by necessary documentation and detailed, itemized receipts.

B. **Declaration To Accompany Each Invoice:** Invoices submitted shall contain the following signed certification at the end of the billing statement:

"I hereby certify under penalty of perjury that the above bill is just and correct according to the terms of the Agreement between Artist and SDCRAA and that payment has not been received.

By: _____"

C. **Invoice Address:** Unless otherwise agreed by the Parties, all invoices shall be sent to the Authority at the address specified below:

San Diego County Regional Airport Authority
Accounts Payable
P.O. Box 82776
San Diego CA 92138-2776

6. **ACCOUNTING RECORDS:** During the Audit Period, the Authority or any other authorized government entity may audit Artist's Accounting Records. Such audit(s) shall be conducted at reasonable times. Artist shall maintain all Accounting Records for the entire length of the Audit Period, and shall fully cooperate with any such audit(s). Artist shall maintain all records at Artist's place of business. If Artist fails to maintain all records within the County of San Diego, Artist agrees to reimburse Authority for reasonable expenses involved in traveling to the records storage site. Except as provided in this section, the cost of an audit shall be borne by the Authority. However, if the audit reveals a discrepancy of more than two percent (2%) between the Compensation requested by Artist in accordance with this Agreement and the

compensation determined by the audit. Artist shall pay the cost of the audit as reasonably determined by the Authority.

7. **TIME IS OF THE ESSENCE:** Time is of the essence in this Agreement. If Artist fails to competently perform Services within the time periods specified in Exhibit A, or, if no time periods are specified, within a reasonable time period, Authority may terminate this Agreement pursuant to the terms of this Agreement.
8. **ASSIGNMENT OR TRANSFER PROHIBITED:** This Agreement is a personal services agreement between the Parties. Artist may not in any manner, by operation of law or otherwise, assign, hypothecate, encumber or transfer this Agreement or any of the rights, duties or obligations under this Agreement, in whole or in part, without the express, prior written consent of the Authority. Any attempted or purported assignment of any right or obligation pursuant to this Agreement, without such consent, shall be voidable at the sole discretion of Authority and grounds for termination pursuant to terms of this Agreement.
9. **TERMINATION:**
 - A. If the President/CEO, in his/her sole discretion, becomes dissatisfied with Artist's performance under this Agreement, the President/CEO may terminate this Agreement by giving written notice to Artist. Such termination shall be effective immediately on delivery of such notice to Artist.
 - B. Any violation or breach of the terms of this Agreement by the Artist or its subcontractors may result in the suspension or termination of this Agreement or such other action that may be necessary to enforce the rights of the parties to this Agreement. The Authority will provide Artist written notice that describes the nature of the breach and corrective actions the Artist must undertake in order to avoid termination of the Agreement. The Authority reserves the right to withhold payments to the Artist until such time the Artist corrects the breach or the Authority elects to terminate the Agreement pursuant to section C below. The Authority's notice will identify a specific date by which the Artist must correct the breach. The Authority may proceed with termination of the Agreement if the Artist fails to correct the breach by the deadline indicated in the Authority's notice.
 - C. In addition to any other rights and remedies allowed by law and this Agreement, either party may terminate this Agreement with or without cause by giving thirty (30) days prior written notice. Such termination shall be effective on the date specified in the written notice.
 - D. Artist shall cease performing Services on the effective date of termination and Artist shall have no further rights under this Agreement except as expressly provided herein. The Parties shall have all rights and remedies provided by law.
 - E. Upon termination of this Agreement, Artist may be compensated in accordance with Exhibit B only for Services actually performed and materials received by Artist for use on the Work described herein. Upon termination, Authority shall be entitled to all materials, deliverables, Work Product and Artwork, whether finished or unfinished, provided to and paid for by Authority under this provision. . In addition, Authority shall have all rights set forth herein to the deliverables, Work Product and Artwork, whether finished or unfinished, including but not limited to the rights set forth in paragraphs 10, 11, 12 and 13. Artist shall not be entitled to any compensation for contractual damages, including, but not limited to expected lost profits, office overhead, loss of productivity, lost opportunity to work on other

projects or any other consequential or incidental damages arising from the termination of this Agreement.

- F. Unless otherwise provided in this Agreement, upon termination of this Agreement, Artist shall deliver immediately to the Authority all property belonging to the Authority and all deliverables paid for, whether given to Artist by the Authority or prepared by Artist in the course of rendering the Services, including, but not limited to, all Work Product then in progress and all material in Artist's possession that contains Proprietary Information and any copies thereof, whether prepared by Artist or others. Following termination, Artist shall not retain any written or other tangible (including machine-readable) material containing any Proprietary Information.
- G. The duties and obligations imposed by the terms and conditions of the Agreement and the rights and remedies available thereunder are in addition to, and not limitation of, any duties, obligations, rights and remedies otherwise imposed or available by law.

10. **PROPRIETARY INFORMATION OF AUTHORITY:**

- A. **General:** Artist's Services may involve access to and creation of Proprietary Information.
- B. **Restrictions on Use and Disclosure:** During the term of this Agreement and thereafter, Artist shall: (a) hold and use Proprietary Information in strict confidence and solely for the benefit of Authority and not for the benefit of Artist or any third party; (b) not copy or use any Proprietary Information, except as necessary to perform Services; and (c) not disclose or otherwise make available any Proprietary Information to any third party unless first authorized in writing by the Authority.
- C. **Restrictions On References To Authority:** Except as provided in this Agreement, Artist shall not represent in any way that Authority endorses or supports Artist or Artist's activities without the prior written consent of Authority. Artist is prohibited from making any representations regarding the relationship between Artist and Authority without the prior written consent of Authority. Artist shall not make any representations about Authority or use the Authority's name or the name of any of its Board Members, employees, or agents in documents or material generated by Artist without the Authority's prior written consent.

11. **AUTHORITY'S OWNERSHIP RIGHTS REGARDING THE ARTWORK:**

With respect to the Artwork and in consideration of the procedures and remedies specified in this Agreement, Artist waives any and all claims, arising at any time and under any circumstances, against Authority, its officers, agents, employees, successors, and assigns arising under the federal Visual artist Rights Act (17 U.S.C. § 106A and 113(d)), the California Art Preservation Act (Cal. Civil Code §§987 *et seq.*) and any other local, state, federal, or international laws that convey rights of the same nature as those conveyed under 17 U.S.C. §§ 106A and 113(d), Cal. Civil Code §§ 987 *et seq.* or any other type of moral right protecting the integrity of works of art.

- 1) Artist agrees that Authority, its successors and assigns, has complete flexibility to operate and manage Authority property in the public interest and retains the absolute right to Alter the Artwork where, in the Authority's sole discretion, such Alteration is in the public interest. Such actions in the public interest include, but are not limited to:
 - a) Alteration to comply with federal, state, or local statutes or regulations, including the Americans with Disabilities Act and Title 24 of the California Building Code.
 - b) Alteration to eliminate hazard.

- c) Relocation of the Artwork to a different location which may be selected at the sole discretion of the Authority.

B. Indemnification of Authority Regarding Violation of Artistic Rights: Without in any way limiting the generality of indemnification and/or hold harmless provisions contained in other sections of this Agreement, the Artist represents and warrants that any material or deliverables, including but not limited to, the Artwork provided under this Agreement are either original, and not encumbered and do not infringe upon the copyright, trademark, patent, or other intellectual property rights of any third party, or are in the public domain. If deliverables, materials, or artworks provided hereunder become the subject of a claim, suit, or allegation of copyright, trademark, or patent infringement, the Authority shall have the right, in its sole discretion, to require Artist to produce, at Artist's own expense, new non-infringing materials, deliverables, or artworks as a means of remedying any claim of infringement in addition to any other remedy available to Authority under law or equity. Artist further agrees to indemnify and hold harmless Authority, its directors, officers, employees, agents, or representatives from and against any and all claims, actions, costs, judgments or damages of any type alleging or threatening that any materials, deliverable, supplies, equipment, services, or Artworks provide under this Agreement infringe the copyright, trademark, patent, or other intellectual property or propriety rights of any third party ("Third Party Claims of Infringement"). If a Third Party Claim of Infringement is threatened or made before Artist receives payment under this contract, the Authority shall be entitled, upon written notice to Artist, to withhold some or all of such payment.

12. **INTELLECTUAL PROPERTY RIGHTS AND PUBLICITY RIGHTS:**

- A. **Copyright:** Subject to usage rights and licenses granted to Authority hereunder, Artist shall retain all 17 U.S.C. §106 copyrights in all original Artwork produced under this Agreement. Artist's copyright shall not extend to predominantly utilitarian aspects of the Artworks, such as landscaping elements, furnishing, or other similar objects. If Artist is comprised of two or more individual persons, the individual persons shall be deemed joint authors of the Artwork, unless the individual persons or entities agree otherwise in a writing acceptable to Authority.
- B. **Authority's Intellectual Property License:** Artist grants to Authority, and to Authority's agents, authorized contractors, successors, and assigns an unlimited and irrevocable license (as described in Authority Policy 8.50(2)(a)) to do the following with respect to the Artwork produced under this Agreement, whether in whole or in part, in all media, including electronic and digital, throughout the universe:
 - 1) Implementation, Use and Display: Authority may use and display the Artwork and any models or reproductions of the Artwork.
 - 2) Reproduction and Distribution: Authority may make and distribute, and authorize the making, display and distribution of, photographs and other 2-dimensional reproductions of the Artwork. Authority may use such reproductions for any Authority-related purpose, including advertising, educational and promotional materials, brochures, books, flyers, postcards, photograph, print, broadcast, film, electronic and multimedia publicity, and gifts for the Authority benefactors, documentation of Authority's Public Art Collection, and catalogues or similar publications. Authority shall ensure such reproductions are made in a professional and tasteful manner, in the sole and reasonable judgment of Authority. The license granted hereunder does not include the right to create reproductions on commercial merchandise such as tote-bags, T-shirts, coffee mugs and similar items. Such reproductions may only be created pursuant to separate license agreements with Artist.

- 3) Public Records Requests: All documents provided by Artist to Authority are public records. Authority may authorize third parties to review and reproduce such documents pursuant to public records laws, including the California Public Records Act.
- 4) Third Party Infringement: Authority is not responsible for any third party infringement of Artist's copyright and not responsible for protecting the intellectual property of Artist
- 5) Credit: Artist agrees that all formal references to Artwork produced under this Agreement and any reproductions of the Artwork in any form shall include the following credit: "Developed through the Performing Arts Residency Program of the San Diego International Airport." Authority shall credit Artist for the Artwork and of any published 2-dimensional reproduction of the Artwork generated by Authority in the following manner [artist][title][year].
- 6) Publicity: Authority shall have the right to use Artist's name, likeness, and biographical information, in connection with the display or reproduction and distribution of the Artwork including all advertising and promotional materials regarding the Airport.
- 7) Trademark: In the event that Authority's use of the Artwork creates trademark, service mark, or trade dress rights in connection with the Artwork, Authority shall have exclusive and irrevocable rights in such trademark, service mark, or trade dress.
- 8) Unique: Artist warrants that the Artwork produced under this Agreement is a singular edition, and that neither Artist nor Artist's agents will execute or authorize another work of the same or substantially similar image, design, dimensions and materials as the Artwork. Artist may create works that utilize or incorporate various individual art element that comprise the Artworks, so long as the work utilizing or incorporating such individual elements (a) does not consist predominantly and primarily of such elements; (b) is not the same or substantially similar in image, design, dimensions and materials as the Artwork, and is not displayed in an environment that is the same or substantially similar to the environment in which the Artworks are to be displayed at the Airport. Recognizing that Authority has no adequate remedy at law for Artist's violation of this warranty, Artist agrees that Authority shall be entitled to enjoin Artist in the event of a breach of this warranty.

13. **ARTIST'S WARRANTIES:**

- A. **Warranty of Title:** Artist represents and warrants that Artist is the sole author of the Artwork and that Artist is the sole owner of any and all copyrights pertaining to the Artwork. Artist further represents that the Artwork is free and clear of any liens and that there is no outstanding disputes in connection to property rights, intellectual property rights or any other rights in the Artwork or any parts of the Artwork.
- B. **Warranty of Public Safety:** Artist represents and warrants that the Artwork will not pose a danger to public health or safety in view of the possibility of misuse, if such misuse is in a manner that was reasonably foreseeable at any time during the term of this Agreement.
- C. **Warranty of Acceptable Standard of Display and Operation:** Artist represents and warrants that:
 - 1) The Artwork shall conform to design specifications and, where Artwork involves electronic, digital, video, mechanical, living, variable, moving or other dynamic components, the Artwork will also operate, function, and perform in accordance with Artist's representations to Authority without any costs beyond the final Budget for the Artwork or any additional assistance by Authority staff; it being recognized, however,

that Authority technical personnel will be required for routine operation, maintenance and troubleshooting.

14. **INDEPENDENT CONTRACTOR (ARTIST):** Artist shall act in an independent capacity and not as an officer or employee of the Authority. Artist shall have no authority to act as an agent on behalf of the Authority unless specifically authorized to do so in writing. Authority shall have no liability for Artist's actions and performance and assumes no responsibility for taxes, bonds, payments, or other commitments, implied or express, that may be made by or for Artist. Artist shall purchase all bonds and pay all taxes required for the performance of Services. Nothing contained in this Agreement shall be construed as creating a partnership or joint venture between Artist and Authority or between Artist and any other entity or party or cause Authority to be responsible in any way for the debts or obligations of Artist or any other party or entity.

15. **INSURANCE REQUIREMENTS:**

- A. Artist shall procure, at its expense, and keep in effect at all times during the term of this Agreement, the types and amounts of insurance specified in Exhibit C entitled "Insurance", which is attached hereto and incorporated by reference herein. The specified insurance shall include and insure Authority, its Board and all its officers, employees, and agents, their successors and assigns, as additional insureds, against the areas of risk associated with the Services as described in "Exhibit A" with respect to Artist's acts or omissions in the performance of this Agreement, its operations, use, and occupancy of the Airport, and other related functions performed by or on behalf of Artist in, on or about Airport.
- B. Each specified insurance policy (other than Worker's Compensation and Employers' Liability and fire and extended coverages) shall contain a Severability of Interest (Cross Liability) clause which states, "It is agreed that the insurance afforded by this policy shall apply separately to each insured against whom a claim is made or suit is brought except with respect to the limits of the company's liability," and a Contractual Endorsement which shall state, "Such insurance as is afforded by this policy shall also apply to liability assumed by the insured under insured's Agreement with the Authority."
- C. All such insurance shall be primary and noncontributing with any other insurance held by Authority where liability arises out of or results from the acts or omissions of Artist, its agents, employees, officers, assigns, or any person or entity acting for or on behalf of Artist. Such policies may provide for reasonable deductibles and/or retentions acceptable to the President/CEO based upon the nature of Artist's operations and the type of insurance involved.
- D. Authority shall have no liability for any premiums charged for such coverage(s). The inclusion of Authority, its Board and all its officers, employees, and agents, their successors and assigns, as insureds is not intended to, and shall not, make them, or any of them, a partner or joint venturer with Artist in Artist's operations at Airport or in the performance of this Agreement. In the event Artist fails to furnish Authority with evidence of insurance and maintain the insurance as required, Authority upon ten (10) days prior written notice to comply, may, but shall not be required to, procure such insurance at the cost and expense of Artist, and Artist agrees to promptly reimburse Authority for the cost thereof plus fifteen (15) percent for administrative overhead. Payment shall be made within thirty (30) days of invoice date.
- E. At least ten (10) days prior to the expiration date of the above policies, documentation showing that the insurance coverage has been renewed or extended shall be filed with Authority. If such coverage is canceled or reduced, Artist shall, within fifteen (15) days of such cancellation or reduction of coverage, file with Authority evidence that the required

insurance has been reinstated or provided through another insurance company or companies.

- F. Artist shall provide proof of all required insurance and related requirements to Authority either by production of the actual insurance policy(ies), by use of Authority's own endorsement form(s), by broker's letter acceptable to the President/CEO in both form and content in the case of foreign insurance syndicates, or by other written evidence of insurance acceptable to the President/CEO. The documents evidencing all required coverages shall be filed with Authority prior to Artist performing Services or occupying the Airport. The documents shall contain the applicable policy number, the inclusive dates of policy coverages, and the insurance carrier's name, address and telephone number, shall bear an original signature of an authorized representative of said carrier, and shall provide that such insurance shall not be subject to cancellation, reduction in coverage, or nonrenewal except after written notice by certified mail, return receipt requested, to the Authority at least thirty (30) days prior to the effective date thereof. Authority reserves the right to have submitted to it, upon request, all pertinent information about the agent, broker and carrier providing such insurance.
- G. Authority and Artist agree that the insurance policy limits specified herein shall be reviewed for adequacy annually throughout the term of this Agreement by the President/CEO who may, thereafter, require Artist, on thirty (30) days prior written notice, to adjust the amounts of insurance coverage to whatever reasonable amount said President/CEO deems to be adequate.
- H. All insurance policies required herein shall have a minimum best financial rating of A minus 7.
- I. Submission of insurance from a non-California admitted carrier is subject to the provisions of California Insurance Code Sections 1760 through 1780, and any other regulations and/or directives from the State Department of Insurance or other regulatory board or agency. Artist agrees, except where exempted, to provide Authority proof of said insurance by and through a surplus line broker licensed by the State of California at the address specified below:

San Diego County Regional Airport Authority
Risk Management Department
P.O. Box 82776
San Diego, CA 92138-2776

16. **INDEMNIFICATION:**

- A. **Non-Design Professionals:** In addition to the provisions of the section entitled "Insurance Requirements", Artist shall indemnify, hold harmless and defend the Authority, its Board, officers, directors, employees, agents and volunteers from and against all claims, damages, losses and expenses, including reasonable attorneys' fees and court costs, arising out of the performance of the Services described herein, caused by any act or omission of Artist and/or any of its subcontractors, employees, agents, officers and directors, except where caused by the sole negligence or willful misconduct of the Authority.
- B. **Design Professionals:** Notwithstanding the provisions of the above, the following provision shall apply to Artists that are Design Professionals when providing "design professional services" (as that term is defined under Civil Code section 2782.8) to the Authority. In addition to the requirements of the section entitled "Insurance Requirements", to the fullest extent permitted by law, Artist shall defend (with counsel of the Authority's

choosing), indemnify and hold the Authority, its Board, officers, directors, employees, agents, and volunteers, free and harmless from any and all claims, demands, causes of action, costs, expenses, liability, loss, damage or injury of any kind, in law or equity, to property or persons, including wrongful death, in any manner arising out of, pertaining to, or incident to any acts, errors or omissions, or willful misconduct of Artist, its officials, officers, employees, subcontractors, consultants or agents in connection with the performance of the Artist's Services, the project or this Agreement, including without limitation the payment of all damages, expert witness fees and attorney's fees and other related costs and expenses. Artist's obligation to indemnify shall not be restricted to insurance proceeds, if any received by Artist, the Authority, its officials, officers, employees, agents, or volunteers. To the extent required by Civil Code section 2782.8, which is fully incorporated herein, Artist's obligations under the above indemnity shall be limited to claims that arise out of, pertain to, or relate to the negligence, recklessness, or willful misconduct of the Artist, but shall not otherwise be reduced. If Artist's obligations to defend, indemnify, and/or hold harmless arise out of Artist's performance of "design professional services" (as defined under Civil Code section 2782.8), then upon Artist obtaining a final adjudication that liability under a claim is caused by the comparative active negligence or willful misconduct of the Authority, Artist's obligations shall be reduced in proportion to the established comparative liability of the Authority and shall not exceed the Artist's proportionate percentage of fault.

17. **CONFORMANCE WITH RULES AND REGULATIONS:** Artist agrees to abide by any and all:
 - A. Applicable rules, regulations, resolutions, policies, codes, orders and restrictions which are now in force or which may be hereafter adopted by the Authority with respect to operation of the Airport;
 - B. Orders, directives, or conditions issued, given or imposed by the President/CEO with respect to the use and operation of the Airport;
 - C. Applicable laws, ordinances, statutes, rules, regulations, or orders of any federal, state, county, municipal or other governmental entity, exercising jurisdiction over the Airport;
 - D. Artist acknowledges that it has reviewed and accepts the Security Instructions posted on the Authority's website at www.san.org. If TSA imposes a fine or penalty on the Authority for Artist's non-compliance with federal laws and or TSA rules and regulations, then Artist shall reimburse and indemnify the Authority for the entire amount of the fine or penalty.
18. **PREVAILING WAGE:** State prevailing wage rates may apply to work performed under this Agreement. State prevailing wage rates apply to all public works contracts as set forth in California Labor Code, including but not limited to, §§1720, 1720.2, 1720.3, 1720.4 and 1771. Artist is solely responsible to determine if state prevailing wage rates apply and, if applicable, pay such rates in accordance with all laws, ordinances, rules, and regulations.
19. **BANKRUPTCY:** In the event Artist commences a proceeding under the Federal Bankruptcy Act or is adjudicated bankrupt or insolvent, or a judicial sale is made of Artist's interest under this Agreement, this Agreement shall at the option of the Authority immediately terminate and all rights of Artist hereunder shall immediately cease and terminate. If during the Agreement, Artist files for bankruptcy protection, it covenants and agrees to serve the Authority with a copy of the court filing documents within five (5) days thereafter.
20. **LICENSES AND PERMITS:** Artist shall possess all licenses, permits, qualifications, and approvals of whatever nature that are legally required for Artist to perform the Services under

this Agreement. Artist represents and warrants that it, at its sole cost and expense, shall keep in effect at all times during the term of this Agreement any licenses, permits, and approvals that are required for Artist to practice its profession and/or perform the Services.

21. **CONFLICT OF INTEREST**: Artist is not now a party to, and during the term of this Agreement shall not enter into, any contract or agreement that will create a conflict of interest with its duties to the Authority under this Agreement.
22. **ENTIRE UNDERSTANDING**: This Agreement contains the entire agreement of the Parties and supersedes all prior negotiations, discussions, obligations, and rights of the Parties regarding this Agreement. Artist acknowledges that there is no other written or oral understanding between the Parties. No modification, amendment, or alteration of this Agreement shall be valid unless it is in writing and signed by all Parties.
23. **NON-DISCRIMINATION**: Artist agrees at all times to fully comply with all laws prohibiting discrimination against any person or class of persons by reason of race, color, gender, religious creed, sex (including pregnancy or child birth), age, national origin, ancestry, sexual orientation, physical or mental disability, medical condition including genetic characteristics, veteran status, marital status, family care status, or any other considerations made unlawful by federal, state or local law in performance of this Agreement. If the use provided for in this Agreement allows Artist to offer accommodations or services to the public, such accommodations, or services shall be offered on fair and reasonable terms.
24. **PARTIAL INVALIDITY**: If any term, covenant, condition, or provision of this Agreement is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remainder shall remain in full force and effect, and shall in no way be affected, impaired or invalidated.

25. **NOTICES**:

- A. Any notice required or permitted by this Agreement shall be in writing and shall be delivered as follows with notice deemed given as indicated: (a) by personal delivery on the date that personal delivery is accomplished; (b) by overnight courier upon the date of signature verification of receipt; or (c) by certified or registered mail, return receipt requested, upon signature verification of receipt. Notice shall be sent to the addresses set forth below, or such other address as either party may specify in writing:

If to the Authority, to: President/CEO
San Diego County Regional Airport Authority
P. O. Box 82776
San Diego, California 92138-2776

If to Artist: ARTIST NAME
Attn: NAME
ADDRESS
ADDRESS

- B. Artist agrees that Notice from the President/CEO shall be effective as to the Artist as if it were executed by the Board or by Resolution of the Board.

26. **INTERPRETATION**:

- A. **Section Headings**: Section headings in this Agreement are for convenience in reference and do not define or limit the scope of any provision.
- B. **Fair Meaning**: The language of this Agreement shall be construed according to its fair meaning, and not strictly for or against either Party.

- C. **Two Constructions:** If any provision in this Agreement is capable of two constructions, one of which would render the provision void and the other of which would render the provision valid, then the provision shall have the meaning which renders it valid.
- D. **Governing Law:** This Agreement and all of its terms and conditions shall be construed, interpreted and applied in accordance with, governed by, and enforced under the laws of the State of California.
- E. **Venue:** Notwithstanding applicable provision of 28 U.S.C. Section 1391 or of California Code of Civil Procedure Section 394, the Parties agree that the venue in all matters arising out of this Agreement shall be the Superior Court of California, County of San Diego.
- F. **Gender:** The use of any gender shall include all genders, and the use of any number shall be construed as the singular or the plural, all as the context may require.
- G. **Integrated Agreement:** No alteration or variation of the terms of this Agreement shall be valid unless made in writing and signed by the Parties.
- H. **Other Agreements Not Affected:** Except as specifically stated herein, this Agreement and its terms, conditions, provisions and covenants shall not in any way change, amend, modify, alter, enlarge, impair or prejudice any of the rights, privileges, duties or obligations of either of the Parties under or by reason of any other agreement between the Parties.
27. **JOINT AND SEVERAL LIABILITY:** If Artist is a limited liability company, partnership, or joint venture or is an entity comprised of more than one party or entity, the obligation imposed on Artist under this Agreement shall be joint and several, and each member, general partner, joint venturer, party or entity of Artist shall be jointly and severally liable for all obligations.
28. **WAIVER:** Waiver by either party of any breach by the other party of any one or more of the terms or conditions of this Agreement shall not be construed to be a waiver of any subsequent or other breach of the same or any other term or condition of this Agreement. Failure on the part of either party to require full and complete compliance by the other party with any of the terms or conditions of this Agreement shall not be construed as changing the terms or conditions or preventing full enforcement of other provisions to this Agreement.
29. **COST OF LITIGATION AND/OR ADMINISTRATIVE ACTIONS - ATTORNEY FEES:** If any action, whether an action in litigation or an administrative action, is brought by a party to this Agreement and arises out of or is traceable to any rights, privileges, or obligations bestowed by this Agreement, including but not limited to breach of any provision of this Agreement, the Parties agree that the prevailing party shall be entitled to and the non-prevailing party shall be bound to pay all reasonably incurred costs associated with the action. The Parties agree that all reasonably incurred costs associated with the action include, but are not limited to attorney fees, costs of legal research incurred in preparing documents filed with the court or administrative body, expert witness fees, and exhibits used in presenting the prevailing party's case to the court, jury or administrative body.
30. **AUTHORITY'S RIGHT TO CONTRACT WITH OTHERS:** The rights granted Artist under this Agreement are not exclusive, and Authority reserves the right to enter into other agreements covering the same or similar services that are described in the Agreement.
31. **EFFECT OF DEBARMENT OF ARTIST ON EXISTING CONTRACTS:** For the entire term of this Agreement, Authority reserves the right to immediately terminate this contract in the event that Artist or any subcontractor is debarred by Authority or by the federal government or by any California governmental entity.

32. **PROHIBITION OF BENEFITS:** Artist is familiar with the Authority's prohibition against receipt of benefits by Authority personnel as set forth in Authority Code section 2.10. Artist agrees not to offer any Authority personnel any benefit prohibited by said Code. The offer or giving of any benefit prohibited by the Authority Code shall constitute a material breach of this Agreement by Artist. In addition to any other remedies the Authority may have in law or equity, Authority may terminate this Agreement for breach as provided herein.
33. **FEDERAL AVIATION ADMINISTRATION (FAA) REGULATIONS:** During the performance of this Agreement, the Exhibitor, for itself, its assignees, successors in interest and subcontractors (hereinafter referred to as the "Exhibitor") agrees to the current requirements of the FAA, which are subject to change by the FAA and will be communicated to the Contractor accordingly, as follows:

A. CIVIL RIGHTS – GENERAL (49 U.S.C. § 47123).

- 1) In all its activities within the scope of its airport program, the Exhibitor agrees to comply with pertinent statutes, Executive Orders and such rules as identified in Title VI List of Pertinent Nondiscrimination Acts and Authorities to ensure that no person shall, on the grounds of race, color, national origin, creed, sex, age, or disability be excluded from participating in any activity conducted with or benefiting from Federal assistance. This provision is in addition to that required by Title VI of the Civil Rights Act of 1964.
- 2) The above provision binds the Exhibitor and subcontractors from the bid solicitation period through the completion of the contract.

B. CIVIL RIGHTS – TITLE VI.

- 1) Title VI Solicitation Notice. The Authority, in accordance with the provisions of Title VI of the Civil Rights Act of 1964 (78 Stat. 252, 42 U.S.C. §§ 2000d to 2000d-4), 28 CFR § 50.3, and 49 CFR Part 21, hereby notifies all bidders that it will affirmatively ensure that any contract entered into pursuant to this advertisement, all contractors will be afforded full opportunity to submit bids in response to this invitation and will not be discriminated against on the grounds of the owner's race, color, national origin, sex, creed, age, or disability in consideration for an award.
- 2) Title VI Clauses for Compliance with Nondiscrimination Requirements. During the performance of this contract, the Exhibitor, for itself, its assignees, and successors in interest (hereinafter referred to as the "Exhibitor") agrees as follows:
 - a) Compliance with Regulations: The Exhibitor (hereinafter includes consultants) will comply with the Title VI List of Pertinent Nondiscrimination Acts and Authorities, as they may be amended from time to time, which are herein incorporated by reference and made a part of this contract.
 - b) Non-discrimination: The Exhibitor, with regard to the work performed by it during the contract, will not discriminate on the grounds of race, color, national origin, creed, sex, age, or disability in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The Exhibitor will not participate directly or indirectly in the discrimination prohibited by the Nondiscrimination Acts and Authorities, including employment practices when the contract covers any activity, project, or program set forth in Appendix B of 49 CFR part 21, including any amendments thereto.

- c) Solicitations for Subcontracts, Including Procurements of Materials and Equipment: In all solicitations, either by competitive bidding, or negotiation made by the Exhibitor for work to be performed under a subcontract, including procurements of materials, or leases of equipment, each potential subcontractor or supplier will be notified by the Exhibitor of the Exhibitor's obligations under this contract and the Nondiscrimination Acts and Authorities on the grounds of race, color, or national origin.
 - d) Information and Reports: The Exhibitor will provide all information and reports required by the Acts, the Regulations, and directives issued pursuant thereto and will permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the Authority or the Federal Aviation Administration to be pertinent to ascertain compliance with such Nondiscrimination Acts and Authorities and instructions. Where any information required of a contractor is in the exclusive possession of another who fails or refuses to furnish the information, the Exhibitor will so certify to the Authority or the Federal Aviation Administration, as appropriate, and will set forth what efforts it has made to obtain the information.
 - e) Sanctions for Noncompliance: In the event of a contractor's noncompliance with the Non-discrimination provisions of this contract, the Authority will impose such contract sanctions as it or the Federal Aviation Administration may determine to be appropriate, including, but not limited to:
 - (1) Withholding payments to the Exhibitor under the contract until the Exhibitor complies; and/or
 - (2) Cancelling, terminating, or suspending a contract, in whole or in part.
 - f) Incorporation of Provisions: The Exhibitor will include the provisions of paragraphs a) through f) in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Acts, the Regulations and directives issued pursuant thereto. The Exhibitor will take action with respect to any subcontract or procurement as the Authority or the Federal Aviation Administration may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided, that if the Exhibitor becomes involved in, or is threatened with litigation by a subcontractor, or supplier because of such direction, the Exhibitor may request the Authority to enter into any litigation to protect the interests of the Authority. In addition, the Exhibitor may request the United States to enter into the litigation to protect the interests of the United States.
- 3) Title VI List of Pertinent Nondiscrimination Acts and Authorities. During the performance of this contract, the Exhibitor, for itself, its assignees, and successors in interest (hereinafter referred to as the "Exhibitor") agrees to comply with the following non-discrimination statutes and authorities, including but not limited to:
- a) Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d *et seq.*, 78 stat. 252), (prohibits discrimination on the basis of race, color, national origin);

- b) 49 CFR Part 21 (Non-discrimination in Federally-Assisted programs of the Department of Transportation—Effectuation of Title VI of The Civil Rights Act of 1964) including amendments thereto;
- c) The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. § 4601) (prohibits unfair treatment of persons displaced or whose property has been acquired because of Federal or Federal-aid programs and projects);
- d) Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. § 794 *et seq.*), as amended (prohibits discrimination on the basis of disability); and 49 CFR Part 27 (Nondiscrimination on the Basis of Disability in Programs or Activities Receiving Federal Financial Assistance);
- e) The Age Discrimination Act of 1975, as amended (42 U.S.C. § 6101 *et seq.*) (prohibits discrimination on the basis of age);
- f) Airport and Airway Improvement Act of 1982 (49 U.S.C. § 47123), as amended (prohibits discrimination based on race, creed, color, national origin, or sex);
- g) The Civil Rights Restoration Act of 1987 (PL 100-259) (broadened the scope, coverage and applicability of Title VI of the Civil Rights Act of 1964, the Age Discrimination Act of 1975 and Section 504 of the Rehabilitation Act of 1973, by expanding the definition of the terms “programs or activities” to include all of the programs or activities of the Federal-aid recipients, sub-recipients and contractors, whether such programs or activities are Federally funded or not);
- h) Titles II and III of the Americans with Disabilities Act of 1990 (42 USC § 12101, *et seq.*) (prohibit discrimination on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities) as implemented by U.S. Department of Transportation regulations at 49 CFR parts 37 and 38;
- i) Title IX of the Education Amendments of 1972, as amended, which prohibits you from discriminating because of sex in education programs or activities (20 U.S.C. §1681, *et seq.*).

C. **SUBORDINATION:** This Agreement shall be subordinate to the provisions and requirements of any existing or future agreement between the Authority and the United States, relative to the development, operation, or maintenance of the Airport.

D. **EXCLUSIVE RIGHTS:** It is understood and agreed that nothing herein contained shall be construed to grant or authorize the granting of an exclusive right within the meaning of § 308a of the Federal Aviation Act of 1958 (49 U.S.C. § 40103; P.L. 103-272; 108 STAT. 1102, and as it may be amended in the future).

34. **SIGNATURES:**

- A. **Signature of Parties:** It is an express condition of this Agreement that it shall not be complete or effective until signed by Authority and by Artist.

- B. **Counterparts**: This Agreement may be executed in one or more counterparts, each of which shall be deemed an original and all of which shall be taken together and deemed to be one instrument.

APPROVED AS TO FORM _____ General Counsel Date: _____	SAN DIEGO COUNTY REGIONAL AIRPORT AUTHORITY _____ Atif Saeed _____ President/CEO Date: _____
 ARTIST: _____ SIGNATURE: _____ NAME: _____ TITLE: _____ By my signature above, I, hereby certify under penalty of perjury under the laws of the State of California, that I am an officer or employee of the organization with authority to bind and obligate the organization. If your corporation has a seal, please affix below:	

EXHIBIT A – SCOPE OF WORK

A-1. Purpose: The Authority is entering into this Agreement with a Performing Arts Group (“Artist”). The Artist shall participate in a “Residency Program,” the purpose of which is to create, rehearse and perform original content inspired by the Airport environment and facilitate related, participatory experiences and workshops for the public.

A-2. Additional Definition: The following definitions apply to this Agreement:

Project: Appropriate for the general public of all age groups and meaningful work(s) of performance art visible to the general public, that has resulted from the research and development conducted during the Site Research and Project Development Phase 2.

Residency Period: Duration of time not to exceed twelve-months from completion of Phase 3, during which the Artist shall rehearse and perform at the Site, in accordance with the Authority-approved Project proposal.

A-3. Procedures for Execution of Work:

- A.** The Work shall be completed in the following five (5) separately defined, successive stages (“Phases”, individually referred to as “Phase –”): (1) Kick-off Meeting (2) Site Research and Project Development; (3) Project Proposal; (4) Residency Period; and (5) Post Residency Period Services.
- B.** By authorizing any particular Phase, the Authority is not obligated to authorize any subsequent Phase.
- C.** Artist shall not commence any Phase nor incur any expense(s) in anticipation of commencing any Phase unless and until the Authority’s designated representative has provided prior authorization via email or in writing, to proceed with the specific Phase.
- D.** Artist shall rehearse and perform the Project in substantial conformity with the approved Project proposal so that the finished Project faithfully reflects the approved proposal.

A-4. Scope of Artist’s Responsibilities, Artist-Provided Services, and Artist-Provided Deliverables:

A. General:

- 1. During the entire Term of the Agreement while performing Services, Artist shall furnish all personnel, supplies, material, and equipment necessary to perform the requested Services pursuant to this Agreement to include all personnel required to perform the Work and to complete the Project to the complete satisfaction of the Authority.
- 2. During all Phases of the Project, the Artist shall consult and work closely with Authority designated representatives, local experts or other interested parties as designated by the Authority. The Artist acknowledges that an essential element of the Project is coordination with Authority representatives while performing Services at the Site. Artist agrees to accept responsibility for coordination with said representatives to ensure proper coordination of performance logistics. The Artist shall be responsible for providing weekly updates to the Authority. The Authority designated representative will be available to the Artist for coordination.
- 3. The Artist shall designate a single point of contact for the Artist group/organization who will assume responsibility for all communications with the Authority’s Airport Arts

Program staff, programming activity, and representation of the Artist group/organization at meetings.

4. Artists shall provide a Project consistent with the Authority-approved proposal.

B. Project Phases: Artist shall participate in meetings with the Authority's designated representatives. The meeting format, duration, times and dates shall be agreed to by both Parties.

1. **Phase 1 - Kick Off Meeting.** Upon execution of agreement the Artist shall attend a coordination meeting with Authority representative.

2. **Phase 2 - Site Research and Project Development.** This Phase shall be completed within three (3) weeks of the completion of Phase 1, Agreement's execution date, or as otherwise agreed to by both Parties. Tasks shall include:

a. **Site Research.** This task shall begin upon authorization via email or in writing by the Authority representative. The Artist shall meet to discuss and gather information, identify core stakeholder groups, identify potential sites for rehearsals and performances that will allow audience engagement, and to create a strategy for site research to include developing future meeting schedules, a work plan, production needs, and a preliminary cost estimate ("Budget") that shall include any expenses that are specific to the Residency Period. Artist shall complete Site research tasks to the satisfaction of Authority prior to proceeding to Project development.

b. **Project Development.** This task shall begin upon authorization via email or in writing by the Authority representative. The Artist shall provide the Authority with a Project development status report ("Report"), in a format acceptable to the Authority, for review and approval. The Report shall include the following information, including but not limited to, all information collected from research and meetings related to Phase 2.

1) Upon review of the Report by the Authority representative, the Authority representative shall provide the Artist with comments and or modifications, if any, on the Report. Upon receipt of said comments and or modifications, Artist shall update the Report and shall re-submit the Report to the Authority representative for final review and approval.

2) Artist shall complete all Phase 2 tasks to the satisfaction of the Authority prior to proceeding to Phase 3.

3. **Phase 3 - Project Proposal:** This phase shall be completed within three (3) weeks of completion of Phase 2 tasks, or as otherwise agreed to by both Parties. Upon receipt of the Authority's authorization via email or in writing the Artist shall provide the Authority with a Project proposal ("Proposal"), in a format acceptable to the Authority, for review and approval. The artist acknowledges that one or more reviewing bodies (collectively "Reviewing Body") may be assembled to review and make recommendations on the Proposal. The Reviewing Body may recommend approval, approval with minor modifications or disapproval. In the event that the Reviewing Body recommends disapproval, or approval with minor modifications, Artist, upon written notification by the Authority, shall respond to the Reviewing Body's comments and submit within seven (7) calendar days the revised Proposal to the Authority for review.

The Proposal shall detail the artistic intent and goals for a series of rehearsals, performances, and workshops to be realized during the Residency Period. The Proposal shall also include, but not be limited to, the following information:

- a. A narrative addressing the general intent of the Project, the proposed format and nature of performances and/or workshops, performers to be included in performances and/or workshops, and proposed Sites and specific audiences identified for performances, rehearsals, and/or workshops.
 - b. At least one (1) proposed performance or workshop at a location outside of the Airport, to promote the residency program at the Airport and increase accessibility to the community.
 - c. Address safety considerations for performances and/or workshops.
 - d. A timeline schedule for preparation and implementation of performances and/or workshops, and shall include no less than one (1) rehearsal, performance, or workshop bi-weekly for the duration of the Residency Period; and
 - e. Proposed documentation, including but not limited to photographs, video, soundscapes, journals, and presentations, that capture the Artists process and performance at the Airport.
 - f. The Artist shall investigate costs and prepare the Budget of the technical requirements and logistics for all performances and workshops. The estimates shall indicate the feasibility of producing the proposed Project within the Budget. The Budget shall include a line item for professional video and photographic documentation of the Residency Period.
 - g. Artist shall complete all Phase 3 tasks to the satisfaction of Authority prior to proceeding to Phase 4.
4. **Phase 4 - Residency Period:** This phase shall be completed within sixteen (16) weeks of completion of Phase 3, or as otherwise agreed to by both Parties. Upon authorization via email or in writing by the Authority representative, the Artist shall begin development of the Project consistent with the Authority approved Proposal. Artist shall:
- At the Site and at the agreed-upon locations outside of the Airport, as referenced herein, conduct rehearsals, performances, and workshops that are consistent with the approved Proposal.
- a. Performance Plan. No later than two (2) weeks before each scheduled rehearsal, performance or workshop, Artist shall submit a performance plan to the Authority representative for review and approval in a format acceptable to the Authority, detailing production schedule, performance, and breakdown, participating performers, and performance location(s). Each performance plan shall be consistent with the approved Proposal.
 - b. Documentation. The Artist shall create professional quality photographs and professional quality video documenting the entire Residency Period and each performance, public rehearsal, or workshop.
 - c. Subphases. The residency period will be divided into four (4) subphases as described below.

- i. **Phase 4a** will be four (4) weeks, during which no less than (1) rehearsal, performance, or workshop will be completed bi-weekly.
 - ii. **Phase 4b** will be four (4) weeks, during which no less than (1) rehearsal, performance, or workshop will be completed bi-weekly.
 - iii. **Phase 4c** will be four (4) weeks, during which no less than (1) rehearsal, performance, or workshop will be complete bi-weekly.
 - iv. **Phase 4d** will be four (4) weeks, during which no less than (1) rehearsal, performance, or workshop will be complete bi-weekly.
5. **Phase 5 – Documentation of the Residency Period:** Within thirty (30) days of completion of Phase 4 including all tasks and subphases, Artist shall submit to the Authority the professional quality photographs and professional quality video, as approved in Phase 3 and referenced in Phase 4, suitable for publication, documenting the Residency Period.
6. **Additional Services:** If and when the Authority requests Artist provide services in addition to those specified above, Artist shall develop a work plan detailing the specific tasks to be completed and providing a detailed not-to-exceed budget for performing such tasks. Artist shall not perform any Additional Services without prior authorization via email or in writing by the Authority representative to include the execution of the work plan. Artist shall not be authorized to perform or invoice for any work not specifically authorized by the Authority's representative.

A-5. Additional Provisions.

- A. **Authority Ownership of Services and Work Product.** Artist shall retain copyright ownership of original content developed during the Residency Period including but not limited to songs, choreography, and participatory workshops. The Artist may feature original content developed during the Residency Period in future performances or engagements for purposes unrelated to the Project. The Artist shall credit the Authority as a partner when performing said content at future engagements.

EXHIBIT B – COMPENSATION & PAYMENT SCHEDULE**B-1. Compensation for Services:**

For the satisfactory performance and completion of the Phases under this Agreement, the Authority shall pay the Artist compensation as set forth in the fee schedule below. Payment set forth shall constitute full compensation for all Services performed and materials furnished by the Artist under this Agreement. Artist shall be compensated in accordance with the schedule set forth below, upon completion to the Authority's satisfaction of each Phase, including deliverables, and upon the Authority's receipt of a proper invoice. Each payment shall represent full and final payment for all Services and materials provided prior to the due date thereof.

A. Payments shall be made in accordance with the following fixed fee schedule:

Phase	Amount
Phase 1	\$2,250.00
Phase 2	\$1,500.00
Phase 3	\$2,250.00
Phase 4 (to be dispersed in Subphases)	
Subphase 4a	\$3,000.00
Subphase 4b	\$3,000.00
Subphase 4c	\$3,000.00
Subphase 4d	\$3,000.00
Phase 5	\$2,000.00
Total Amount	\$20,000.00

B. For Additional Services: Artist shall not perform any Additional Services without prior authorization in writing by the Authority representative. Artist shall not be authorized to perform or invoice for any additional work not specifically authorized by this agreement. Additional Services, if any, shall not exceed Five-Thousand Dollars (\$5,000) total.

C. Reimbursable Expenses: None.

B-2. Payment Schedule For Specified Services: Upon completion of each Phase and acceptance by Authority of all tasks related to each Phase, Authority shall pay Artist according to the fixed fee schedule as set forth above. The Authority's acceptance or non-acceptance of Services associated with each Phase shall be by via email or by written notice to the Artist. Any email or written notice of non-acceptance shall describe deficiencies and desired corrective action with specificity.

B-3. Total Amount Payable: The total amount payable under this Agreement shall not exceed Twenty-Five Thousand Dollars (\$25,000.00).

EXHIBIT C – INSURANCE REQUIREMENTS FOR ARTIST

Artist understands and agrees that the Insurance requirements set forth in this “Exhibit C” are subject to change. The Authority reserves the right to review for adequacy and modify the Insurance requirements at the commencement of each Phase described in “Exhibit A”. If the Insurance requirements are amended or modified, the Authority shall provide notice in writing to the Artist of the amended Insurance requirements. Artist, on thirty (30) days prior written notice, shall adjust the amounts of insurance coverage to whatever reasonable amount the President/CEO deems to be adequate.

At the commencement of this Agreement, Artist shall maintain, at its expense, the following minimum levels, and types of insurance:

- C-1. Commercial General Liability** (including, without limitation, Contractual Liability, Personal and Advertising Injury, and Products/Completed Operations coverages written on an “occurrence,” not “claims made” basis): one million dollars (\$1,000,000) each occurrence and in the aggregate.
 - A. The Commercial General Liability policy shall be endorsed to include Authority, its agents, officers and employees as additional insureds in the form as required by Authority.
 - B. The coverage provided to Authority, as an additional insured, shall be primary.
- C-2. Personal Automobile Liability:** Covering owned automobiles in the amount of fifteen thousand dollars (\$15,000) for death or injury of any one person, any one accident; thirty thousand dollars (\$30,000) for all persons in any one accident and five thousand dollars (\$5,000) property damage per accident.
- C-3. Worker’s Compensation and Employer’s Liability: In the amounts required by California** State law, but not less than one million dollars (\$1,000,000) Employer’s Liability. Such coverage shall include a waiver of subrogation endorsement in favor of Authority Artist may request a waiver of this requirement if they are exempt from Workers’ Compensation coverage in accordance with California law.

Request for Waiver
Workers' Compensation Insurance Requirement

Business:

Legal Name: _____

Address: _____

Legal Form:

____ Sole Proprietor ____ Limited Partnership ____ General Partnership ____ Corporation

____ Business Trust ____ Limited Liability Company ____ Other: _____

Contact Person (Name and Telephone): _____

Authority Reference:

Authority Department: _____

Contact Name/Telephone: _____

Document Reference: _____

Any work performed on Authority Premises? ____ Yes ____ No (bid, contract, job no., location, etc.)

Nature of work to be performed for Authority: _____

Declaration:

With respect to the above-mentioned business, I hereby warrant that the business has no employees other than the owners, officers, directors, partners or other principals who have elected to be exempt from Workers' Compensation coverage in accordance with California law. I further warrant that I understand the requirements of Section 3700 et seq. of the California Labor Code with respect to providing Workers' Compensation coverage for any employees of the above mentioned business. I agree to comply with the code requirements and all other applicable laws and regulations regarding workers' compensation, payroll taxes, FICA and tax withholding and similar employment issues. I further agree to hold the San Diego County Regional Airport Authority harmless from loss or liability which may arise from the failure of the above-mentioned business to comply with any such laws or regulations. I therefore request that the Authority waive its requirements for evidence of Workers' Compensation insurance in connection with the above-referenced work.

Signature

Owner, Officer, Director, Partnership or other Principal:

Title:

Date:

SAMPLE AGREEMENT DISCLAIMER: THIS DOCUMENT IS PROVIDED FOR INFORMATIONAL AND ILLUSTRATIVE PURPOSES ONLY. IT IS NOT A BINDING AGREEMENT OR AN OFFER OF CONTRACT. THE TERMS, CONDITIONS, CLAUSES, REQUIREMENTS, AND OBLIGATIONS INCLUDED IN ANY FINAL PERFORMING ARTS RESIDENCY AGREEMENT MAY DIFFER AND ARE SUBJECT TO REVIEW, REVISION, AND APPROVAL BY THE SAN DIEGO COUNTY REGIONAL AIRPORT AUTHORITY. PARTICIPATING ARTISTS AND GROUPS SHOULD RELY ONLY ON THE FINAL AGREEMENT ISSUED FOR THEIR SPECIFIC RESIDENCY.