

**MSP ARTS & CULTURE PROGRAM  
AGREEMENT FOR DESIGN OF ARTWORK**

**Project:** \_\_\_\_\_

This AGREEMENT dated \_\_\_\_\_ is between the Metropolitan Airports Commission (“MAC”) and \_\_\_\_\_ (“Artist”).

WHEREAS, MAC owns and operates Minneapolis – St. Paul International Airport (“Airport”); and

WHEREAS, MAC is implementing a construction project and desires to incorporate artwork into the design and construction; and

WHEREAS, MAC and the Airport Foundation MSP (“Foundation”) created the MSP Arts & Culture Program and adopted the Arts and Culture Master Plan; and

WHEREAS, the Arts and Culture Steering Committee was created as an ad hoc committee of the Foundation; and

WHEREAS, the Arts & Culture Steering Committee conducted an open selection process and selected the Artist to design artwork for the Airport; and

WHEREAS, MAC is contracting with the Artist through this Agreement for the Design. The Artist’s role in fabrication and installation, if any, will be through a separate contract.

NOW THEREFORE, the parties mutually agree as follows:

**1. Scope of Services**

**A. Scope of this Agreement**

Under this Agreement, MAC is contracting with the Artist for design of public artwork (“Design”). MAC through the Arts & Culture Steering Committee will select the design(s) that are intended to be fabricated and installed at the Airport. MAC may, but is not obligated to, fabricate and install the Design created under this Agreement. The Design as installed will be referred to as the “Installation.”

MAC will also retain possession of the pair of designs not selected for installation and may fabricate and install them at a later date.

If the Artist participates in the fabrication or installation of the Installation, or oversight of the Installation, the Artist’s work in that regard, and the budget for the Installation, will be covered by separate agreement as a subcontractor to the General Contractor handling the remodeling project.

**Working Relationship of the Parties**

It is the intent of the parties that MAC and the Artist shall establish a close and cooperative working relationship throughout the duration of this Agreement. Therefore, the Artist agrees to communicate and meet with MAC and its consultants regularly during the Design phase. The Artist agrees to perform all work under this Agreement as an independent contractor and not as an agent or employee of MAC or the Foundation.

**B. Schedule**

The schedule for creation and acceptance of the Artist's Design is attached. The parties understand that the time period is short and that time is of the essence. The project will include at least an update at the midpoint in the project and a final presentation to MAC staff and consultants.

**C. Deliverables**

As final deliverables, the Artist shall provide MAC a Design with details and specifications for fabrication and installation provided in a format as requested by MAC per the specifications for the fabricator and/or installer.

**D. Acceptance of Design**

The Design must be acceptable to MAC, through the Arts and Culture Steering Committee, in its sole discretion. The review and final acceptance of the Design may include but is not limited to artistic vision, content, expense, cost of fabrication and installation, and timing. MAC and/or the Arts and Culture Steering Committee reserve the right to request revisions to the Design for budget and other considerations.

**E. Preparation Materials**

MAC reserves the right to request temporary possession of any drawings, models, photographic images, displays, and similar materials produced during the Design process, provided that the request shall not unreasonably interfere with the Artist's work. The Artist agrees to make such materials as noted above that are still in the possession of the Artist available to MAC, and without further compensation to the Artist, for displays associated with the Design or Installation.

**2. Compensation and Payment Schedule**

Compensation to Artist for creation of the Design and the rights granted to MAC under this Agreement will consist of a design fee in the amount of \$ \_\_\_\_\_, and an amount equal to 30% of the fabrication and installation costs of the project. MAC will pay this compensation to Artist upon delivery and acceptance of the Design as provided in Section 1 and submission of Artist's invoice.

Artist shall be responsible for all expenses associated with creation of the Design, including but not limited to, fees, materials, applicable state sales tax, payments to any employees or assistants, studio

and operating costs applicable to this project, insurance, travel costs, and any other costs for preparing and submitting the Design to MAC.

### **3. Term of Agreement**

This Agreement shall remain in effect until completion and final acceptance of the Design by MAC, provided, however, that Sections 4-11 shall survive the termination or expiration of this Agreement.

This Agreement may be canceled by MAC at any time, with or without cause, upon seven (7) days written notice to the Artist. In the event of such a cancellation, the Artist shall be entitled to payment, determined on a pro rata basis, for work or services satisfactorily performed up to the date of cancellation.

### **4. Rights of the Parties**

#### **A. Copyrights**

All rights, title and interest in all copyrightable material which the Artist shall conceive or originate and which arise out of the performance of this Agreement, will be the property of the Artist, along with ownership of any copyrights and copyrightable materials related to the Design.

#### **B. License**

The Artist hereby grants to MAC a perpetual license to:

1. Reproduce, fabricate and install the Design for the Project.
2. Modify the Design in Consultation with the Artist for purposes of fabrication and installation of the Design.
3. Reproduce the Design in printed or electronic form for purposes such as publicity and in other documents prepared by MAC or the Foundation. All reproductions by MAC or the Foundation shall contain a credit to the Artist as follows: ARTIST'S NAME © year.
4. Reproduce the Design to be used on promotional materials e.g., on postcards, note cards, notepads, key chains, coffee mugs, t-shirts, bags and similar items. All reproductions shall contain a credit to the Artist as follows: ARTIST'S NAME © year.
5. Repair the Installation to restore it to the same or similar condition as set forth in the specifications for fabrication and installation in Consultation with the Artist.
6. Remove the Installation from Airport premises, including destruction of the Installation, if deemed necessary or desirable by MAC in connection with

future construction, remodeling, updating or the like of Airport premises. MAC shall offer the Artist a reasonable opportunity to recover the Installation at the Artist's expense provided that the Artist can remove the Installation in a reasonable time period.

7. Have someone else complete or modify the Design if the Artist is unable to complete the Design to be fabricated and installed pursuant to this Agreement.

**C. MAC Ownership**

MAC shall own all copies of the Design delivered, fabricated, and installed under this Agreement and the resulting Installation.

The Artist shall not reproduce the Design in any building or other architectural work, and shall not authorize any third party to do so. The Artist will give credit in substantially the following form: "Original artwork commissioned and acquired by MAC and displayed at the Minneapolis-St. Paul International Airport" in any public showing or reproductions (including in written materials) of the Design.

**5. Distortion, Mutilation or Modification of the Artwork**

**A. Attribution of Artist's Work**

If, after the Design has been completed and installed, any distortion, mutilation, or other modification of the Installation occurs, including any change in the interrelationship or relative locations of parts of the Installation, which would be prejudicial to the Artist's honor or reputation, the Artist shall have the right (exercisable upon written notice to MAC) to prevent MAC from attributing the authorship of the Design to the Artist. Within ninety (90) days after MAC's receipt of such notice, MAC shall remove from the site of the Installation all attributive references to the Artist and shall cease publicly stating the Artist authored or created the Installation; provided, however, no provision of this Agreement shall obligate MAC to alter or remove any such attributive reference printed or published prior to MAC's receipt of such notice.

**B. Integrity of Artist's Work**

The Artist shall have the right to prevent any intentional distortion, mutilation, or other modification of the Design or Installation that would be prejudicial to his or her honor or reputation. However, the Artist does not have the right to prevent an intentional modification of the Installation if MAC, in consultation with the Arts & Culture Steering Committee (or its successor, if any), and pursuant to the Arts & Culture Master Plan (currently found at [www.airportfoundation.org](http://www.airportfoundation.org)) or as amended or any applicable subsequent plans related to art, if any, determines that the Installation should be modified.

**6. Notice and Consultation**

Notice under this Agreement may be given by courier, by U.S. mail or by email to the address provided by the Artist under this Agreement. Where this Agreement speaks of consultation, it means that MAC shall make a good faith effort to find and communicate with the Artist, provided, however, that the final decision will be made by MAC (“Consultation”).

The Artist agrees to notify MAC of any changes in the Artist’s address within ninety (90) days of that change. Failure to do so shall be deemed a waiver of those Artist’s rights expressed in this or subsequent agreements where MAC is to provide notice to the Artist. The Artist agrees that upon the Artist’s death the rights expressed in Sections 4.B. and 5 terminate.

**7. Warranties**

The Artist warrants the Design is the original product of the Artist’s own creative efforts. The Artist also warrants that the Design is unique, does not infringe any copyright or other right of any third party, and that the Design, or a duplicate thereof, has not been offered for sale elsewhere.

**8. Indemnification**

The Artist agrees to indemnify and save and hold MAC, the Foundation, their agents and employees harmless from any and all claims or causes of action arising from the performance of this Agreement by the Artist or the Artist's agents or employees. This clause shall not be construed to bar any legal remedies the Artist may have for MAC's failure to fulfill its obligations pursuant to this Agreement.

**9. No Assignment or Transfer**

The work and services required of the Artist under this Agreement are personal and shall not be assigned or transferred without prior consent of MAC.

**10. Compliance with Laws**

The Artist shall comply with all federal, state and local ordinances, statues, rules and regulations applicable to the performance of the Artist's services under this Agreement. This Agreement is governed by Minnesota law and any disputes will be resolved in Hennepin County, Minnesota.

**11. Waiver**

The parties agree that if any provision of this Agreement is waived, it will not be deemed a waiver to other parts of this Agreement.

**12. Entire Agreement**

This, along with the qualification statement submitted by the Artist, represents the entire agreement of the parties. Both are to be given effect, but in the event of conflict, this Agreement is to prevail. Any amendments to this Agreement shall be in writing, and shall be executed by the same parties who executed the original agreement, or their successors in office.

IN WITNESS WHEREOF, the parties have executed this Agreement intending to be bound by it.

**METROPOLITAN AIRPORTS COMMISSION**

**ARTIST**

\_\_\_\_\_  
**Name**

\_\_\_\_\_  
**Name**

\_\_\_\_\_  
**Title**

\_\_\_\_\_  
**Name (if more than one artist)**

\_\_\_\_\_  
**Date**

\_\_\_\_\_  
**Date**

SAMPLE

**SCHEDULE**

SAMPLE