



## Fiscal Sponsorship Agreement

This Fiscal Sponsorship Agreement ("Agreement") is made on \_\_\_\_\_, by and between Portland Art Museum ("the Sponsor") and \_\_\_\_\_ ("the Project").

**The Sponsor:** The Sponsor is an Oregon nonprofit corporation; exempt from federal tax under section 501(c)(3) of the Internal Revenue Code, as amended (the "Code"). The Sponsor organization is formed to fulfill the expressed mission to engage diverse communities through art and film of enduring quality, and to collect, preserve, and educate for the enrichment of present and future generations.

**The Project:** The Project is an individual or organization that conducts charitable research, organizing or other work that is in alignment with the Sponsor's mission & values (see submitted Project Description).

**The Agreement:** The Sponsor is willing to receive tax-deductible charitable contributions on behalf of the Project. In order to be considered under this agreement a project budget must be equal to or greater than \$10,000. The Project desires to use these funds to implement the Project's Goals. The Sponsor will maintain complete discretion and control over the use of these funds.

By entering into this Agreement, the parties agree to the following terms and conditions:

- 1. Receipt of Funds:** The Sponsor agrees to receive contributions and gifts, including but not limited to grant funding if awarded, to be used for the Project, and to distribute those funds to the Project. All funds received for use by the Project shall be deposited and held in an account managed by the Sponsor. The Sponsor will maintain records to separately identify all transactions related to the Project.
- 2. Reporting Charitable Donations:** The Sponsor agrees that all contributions it receives for the Project will be reported as contributions to the Sponsor as required by law. The Sponsor agrees to notify the Project of any change in its tax-exempt status.
- 3. Protection of Tax-Exempt Status:** The Project agrees not to use funds in any way that would jeopardize the tax-exempt status of the Sponsor. The Project agrees to immediately comply with any written request by the Sponsor that it cease activities, which, in Sponsor's sole opinion, might jeopardize the Sponsor's tax status, and further agrees that the Sponsor may suspend its obligation to make funds available or may terminate this Agreement in the event that the Project fails to comply with any such request. Any changes in the purpose for which contributions are used must be approved in writing by the Sponsor before implementation. The Sponsor retains the right, if the

Project breaches this Agreement, or if the Project jeopardizes the Sponsor's legal or tax status, to immediately return funds to the Sponsor or the donor, or to withhold the funds.

**4. Use of Funds:** The Sponsor also authorizes the Project to make expenditures, which do not exceed total contributions for the Project, on its behalf for use in the Project. The Project agrees to use any and all funds received from the Sponsor solely for expenses of the Project in accordance with the submitted and approved budget and to account fully to the Sponsor for the disbursement of these funds. Any expenditures beyond the amount authorized by the Sponsor are the sole responsibility of the Project and cannot be considered funds under the control and discretion of the Sponsor nor can they be reported in any way associated with the Sponsor's tax-exempt status.

**5. Lobbying:** Funds will not to be used in any attempt to influence legislation through lobbying within the meaning of Internal Revenue Code (IRC) Section 501(c)(3). No agreement, oral or written, to that effect has been made between the Project and Sponsor. The Project shall not use any portion of the funds granted herein to participate or intervene in any political campaign on behalf of or in opposition to any candidate for public office, to induce or encourage violations of law or public policy, to cause any private inurement or improper private benefit to occur, nor to take any other action inconsistent with IRC Section 501(c)(3).

**6. Financial Accounting and Reporting:** The Sponsor will maintain books and financial records for the Project in accordance with generally accepted accounting principles. The Project's revenue and expenses shall be separately recorded in the books of the Sponsor. The Project will provide the Sponsor with documentation to support revenues and expenses of the Project whenever they occur. It is the responsibility of the Sponsor to fully account for the Project income on the annual Form 990 and issue a Form-1099 to the Project as required by the IRS.

**7. Tax Liability:** The Project maintains full tax liability, as funds granted to the Project by Sponsor may or may not be taxable depending on how they're used. The Project, not the Sponsor, is responsible for the project's tax returns, employment taxes, insurance, debts, liabilities, and other legal obligations required by the legal status of the Project.

**8. Sponsor Supervision, Control and Governance:** The Sponsor will appoint a staff member to act as liaison (Staff Liaison) between Sponsor and Project to oversee the fiscal sponsorship. The Project will provide the Sponsor with copies of all grant applications submitted on behalf of the Project, recommendations regarding grant awards and other documentation reasonably required by the Sponsor to enable it to fulfill its obligations as a fiscal sponsor. Sponsor's assigned Staff Liaison must review all solicitations to foundations, major donors, members of the public, and other funding sources in advance. Authority to manage the programmatic activities of the Project is

delegated to the Staff Liaison, subject at all times to the ultimate direction and control of the Sponsor's Senior Management and Board of Trustees.

**9. Fundraising from Individual Donors:** Either the Sponsor or the Project may solicit contributions that are earmarked for the activities of the Project. The Sponsor shall be responsible for the processing and year- end tax acknowledgment of all monies received by the Sponsor on behalf of the Project, which shall be reported as the income of the Sponsor for both tax purposes and for purposes of the Sponsor's financial statements. For contributions solicited by the Project, the Project must provide to the Sponsor a name and address of all individual donors who have contributed through the fiscal sponsorship.

**10. Grants:** The Project may also solicit grants on behalf of the Sponsor that are earmarked for the activities of the Project. For grants submitted through the Sponsor, the Project's sources of funding and the text of the Project's grant applications are subject to approval by the Sponsor. The Sponsor's Executive Director (or designee) must co-sign all original letters of inquiry to foundations or other grant making entities and all grant applications or proposals. All grant agreements, pledges, or other commitments with funding sources to support the Project shall be executed by the Sponsor. The Sponsor must be copied, via its Executive Director (and/or designee), at least one week in advance on all report submissions. Advance approval by the Sponsor is required for any application for government or public agency grants. As with other fundraising, the Sponsor shall be responsible for the processing and year-end tax acknowledgment of all grant monies received by the Sponsor on behalf of the Project, which shall be reported as the income of the Sponsor for both tax purposes and for purposes of the Sponsor's financial statements.

**11. Funds outside the discretion and control of Sponsor:** Any grants and funds raised on behalf of an individual, not the Project, that are not submitted through the Sponsor shall be exempt from this agreement and the supervision of the Sponsor. Individuals reserve the right to raise funds outside of the Project and agree to manage these funds separately and distinctly from Project funds. The Sponsor is not responsible for the use, supervision, control, reporting or governance of those funds.

**12. Disbursement of Funds:** Once funds are raised, the Project may request funds be disbursed by one of the following options:

**A.** Submit a grant or invoice to the Sponsor requesting a disbursement of funds. In applying for project funds, the Project agrees to include the amount requested, anticipated dates of use, a brief work summary, and/or documentation of payments made for expenditures. The Project can request project funds from the Sponsor on a monthly basis.

**B.** Submit invoices to the Sponsor to pay through its AP process. Invoices must include approvals from the Project and Sponsor staff liaison, account coding, and be through a recognized vendor. The project must follow Sponsors vendor setup guidelines.

Disbursements will only be made in accordance with the previously submitted and agreed to budget.

**13. Remuneration to the Sponsor:** In addition to serving as fiscal sponsor for the Project, the Sponsor will provide administrative support to the Project. The Project agrees that, in exchange for the administrative cost of financial accounting, human resources, organizational development, and other support provided by Sponsor, the Sponsor will retain an administrative fee on all donations received on behalf of the Project on a sliding scale per **Appendix "A"**, attached.

**14. Access to Work Product:** Any tangible or intangible property, including copyrights, obtained or created by the Project shall remain the property of Project. The Sponsor will retain access to the work product including deliverables and other materials, during and upon conclusion or termination of the Project at no cost to the Sponsor, where appropriate. When part or all of the product is confidential, the Sponsor will work with the Project to maintain confidentiality.

**15. Term of Agreement:** This Agreement will remain in force until \_\_\_\_\_ or until it is terminated with 30 days' written notice by either the Sponsor or the Project, whichever date is sooner.

**16. Termination:** Either party may terminate this Agreement by giving 30 days' written notice to the other party. The foregoing notwithstanding, if the Sponsor reasonably determines that its continued fiscal sponsorship of the Project may jeopardize the Sponsor's tax-exempt status through misuse of funds, misalignment with Sponsor mission, or project dormancy defined as 2 years of inactivity of the Project, the Sponsor may terminate this Agreement immediately upon notice to the Project. Upon termination, the unused funds shall be returned to the Sponsor, who will return the funds to their original donors minus the administrative fee.

**17. Successor Sponsor:** If the Project will continue to exist but Sponsor terminates the Sponsor's fiscal sponsorship of the Project, the Project may identify another nonprofit corporation that is tax-exempt under IRC Section 501(c)(3), is not classified as a private foundation under Section 509(a), and that is willing and able to sponsor the Project (the "Successor"). If a Successor is found, the balance of assets held by the Sponsor for the Project, together with any other assets held or liabilities incurred by the Sponsor in connection with the Project, shall be transferred to the Successor as soon as administratively practicable, subject to the approval of any third parties (including funding sources) that may be required. If the Project has formed a new organization qualified to be a Successor as set forth in this Paragraph, such organization shall be eligible to receive all such assets and liabilities so long as such organization has received a determination letter from the Internal Revenue Service which states the new organization is exempt from federal tax under section 501(c)(3) of the Internal Revenue Code. If no Successor is found, the Sponsor may allocate the Project's assets and

liabilities in any manner consistent with applicable tax and charitable trust laws and other obligations.

**18. Employment:** Unless otherwise agreed, and subject to the terms and conditions of any Employment Agreement, all personnel working at the Project shall not be considered employees of the Sponsor and are not subject to the same personnel policies and benefits that apply to all employees of the Sponsor.

**19. Waiver and Acknowledgment:** The Project acknowledges that the Sponsor will devote such time to management of the Project's funds and to general supervision of the Project as it sees fit and in its sole discretion. The Project hereby waives and releases the Sponsor from any and all claims, loss, damage, liability, copyright infringement and expense by actions and omissions of the Project, including without limitation attorney's fees and costs (collectively "Claims"), known or unknown, arising out of or in any way related to the Project, except damages arising solely from the Sponsor's gross negligence or willful misconduct.

**20. Severability:** Each provision of this Agreement shall be separately enforceable, and the invalidity of one provision shall not affect the validity or enforceability of any other provision.

**21. Entire Agreement:** This Agreement constitutes the only agreement, and supersedes all prior agreements and understandings, both written and oral, among the parties with respect to the subject matter hereof. This Agreement may not be amended or modified, except in a writing signed by all parties to this Agreement.

By signing below, both parties agree to execute this Agreement on the day and year first written above.

SPONSOR:

\_\_\_\_\_  
Executive Director – Portland Art Museum

\_\_\_\_\_  
Date

PROJECT:

\_\_\_\_\_  
Project Supervisor

\_\_\_\_\_  
Date