

SAMPLE FISCAL SPONSORSHIP AGREEMENT

Below is a sample agreement for reference use only. Keep in mind that every fiscal sponsor will have different methods of running a sponsorship; hence requirements in the agreement will differ case by case. The purpose of this document is to provide example of information in an arts related fiscal sponsorship agreement.

It is important that the relationship between the sponsoring non-profit and the artist - especially if the sponsoring non-profit does not have an on-going fiscal sponsorship program - is contractually governed. This will help sustain a healthy relationship within the sponsorship and avoid potential pitfalls.

Fiscal Sponsorship Agreement Artists' Projects Non-Incorporated

This Agreement is made on _____ between the _____ ("SPONSOR") and _____ ("Artist"), on behalf of _____ (the "Project").

Address: _____

SSN: _____

Telephone: _____

Purpose of Agreement

The Artist has proposed that SPONSOR serve as the fiscal sponsor for the Project. SPONSOR has determined that the Project is consistent with its goals and wishes to make arrangements with the Artist for the implementation and operation of the Project.

I. Fiscal Sponsor

- 1.1 SPONSOR hereby agrees to act as the fiscal sponsor for the Project and hereby engages the Artist to implement and operate the Project in accordance with the terms hereof.
- 1.2 SPONSOR's relationship to the Artist shall be that of a fiscal sponsor. Nothing in this Agreement shall constitute naming the Project as an agent or legal representative of SPONSOR for any purpose whatsoever except as specifically and to the extent set forth herein. This Agreement does not constitute a contract of employment between SPONSOR and any individual. This Agreement shall not be deemed to create any relationship of agency, partnership, or joint venture between the Project and SPONSOR, and the Project shall make no such representation.

- 1.3 The Project shall be operated in a manner consistent with SPONSOR's tax-exempt status and as described by the Artist. No changes in the purposes or activities of the Project shall be made without prior written consent from SPONSOR, nor shall the Artist carry on activities or use funds in any way that jeopardizes SPONSOR's tax-exempt status.
- 1.4 It is not SPONSOR's intention to interfere in the artistic content of the Project as except otherwise may be restricted by contract or law.
- 1.5 All right and title to intellectual property ownership interests in the Project shall belong to the Artist. The Artist represents to SPONSOR that he/she is the owner of all intellectual and other property rights with respect to the Project and/or shall obtain necessary permission or clearances to use such materials.
- 1.6 Without the express written consent of SPONSOR, the Artist may not assign this Agreement or grant or convey any of the rights or obligations acquired pursuant to this Agreement to any third party. Artist shall not represent to any third party that it is an agent, employee or representative of SPONSOR, nor shall Artist enter into any agreement whatsoever, that purports to bind SPONSOR to its terms.
- 1.7 Artist is an independent contractor and not an employee, partner, or joint venturer of or with SPONSOR. SPONSOR shall not withhold on behalf of Artist any sums of incomes tax, unemployment insurance, social security or any other withholding or benefit.
- 1.8 The Artist shall not and shall not permit the Project to attempt to influence legislation or participate or intervene in any political campaign on behalf of or in position to any candidate for public office or otherwise engage in the carrying on of propaganda within the meaning of 501(c)(3) of the Internal Revenue Code of 1986.
- 1.9 The Artist will submit to SPONSOR a narrative and financial report describing programs and services of the Project every six months from the date the Artist signs this fiscal sponsorship agreement. SPONSOR will provide a status report form with instructions.
- 1.10 The Artist will submit to SPONSOR a narrative and financial report describing activities and outcomes of the Project within 60 days of the conclusion of all Project-related activities or within 60 days of termination of the fiscal sponsorship agreement, whichever is earlier. SPONSOR will provide a final report form with instructions.
- 1.11 This agreement is an exclusive arrangement. The Artist shall use no other fiscal sponsor for the Project without prior written consent from SPONSOR. SPONSOR agrees to not unreasonably withhold consent.

II. Fundraising

- 2.1 The Artist may solicit gifts, contributions and grants on behalf of the Project. The Artist must inform SPONSOR of potential contributors and receive approval from SPONSOR before submitting requests for funding. The Artist may prepare fundraising materials subject to prior approval by SPONSOR, and must allow a minimum of two weeks for SPONSOR staff to review fundraising materials and requests for funding prior to submission. SPONSOR will make available on request a letter to potential contributors, that explains the relationship between the Project and SPONSOR.
- 2.2 The Artist will provide SPONSOR with copies of all correspondence, proposals, solicitation materials, contracts, agreements and other associated documents relating to grants, loans, and contributions to be made payable to SPONSOR on behalf of the Project.

- 2.3 The Artist will prepare all interim and final reports as required by funders of the Project. The Artist will submit all interim and final reports to SPONSOR for review and approval at least two weeks prior to the due date. SPONSOR will submit approved interim and final reports to funders.
- 2.4 SPONSOR will acknowledge to donors all contributions of cash in the amount of \$250 or more received by and made payable to SPONSOR on behalf of the Project.

III. Financial Services

- 3.1 SPONSOR will deposit and track any funds received for the Project under the name of the Project ("Project Fund"). SPONSOR will disburse monies from the Project Fund only as instructed in writing by the Artist and only as authorized by this Agreement. Disbursements will be restricted to the implementation and operation of the Project and as may be otherwise provided herein.
- 3.2 SPONSOR will maintain financial records for the funds received and disbursed by SPONSOR on behalf of the Project according to generally accepted accounting principles, retain records as long as required by law, and make records available to auditors as required by law.
- 3.3 SPONSOR will reflect the activities of the Project to the extent required on its New York State and federal government tax returns and financial reports.
- 3.4 All disbursements from the Project Fund shall be treated as payments made to or on behalf of the Artist to accomplish the purpose of the Project. Each year SPONSOR will prepare and file an IRS 1099 form reflecting all payments from the Project Fund as payments to the Artist. The Artist will provide SPONSOR with proper documentation to accomplish this, including the Artist's Social Security number or Federal Employer Identification number. The Artist is responsible for the tax implications of receiving these monies.
- 3.6 Except to the extent specifically set forth in this Agreement, SPONSOR shall have no responsibility to prepare or file any returns or reports with any governmental agency with respect to the activities of the Project or the Artist. Specifically, the Artist is responsible for approximately reflecting the activities of the Project on his/her own federal, state and local tax returns.

Publicity

- 4.1 SPONSOR will recognize and discuss the Project as it deems fit and will talk about the Project as a fiscally sponsored project publicly.
- 4.2 The Artist will give proper credit to SPONSOR on any electronic, printed or published materials relating to the Project in the following form:

"[The Project] is fiscally sponsored by [name of SPONSOR]" adding if necessary "with funding provided by [funders]."

The Artist will not alter or substitute this language.
- 4.3 The Artist will submit to SPONSOR all print, web and email-based publicity materials that mention SPONSOR for its review and approval prior to their publication and distribution.

Fees and Charges

The Artists will pay the following fees, charges and expenses:

- 5.1 The Artist will pay a one-time \$XX start up fee to SPONSOR upon signing this Agreement.
- 5.2 SPONSOR will deduct X% of all funds deposited in the Project Fund as an administrative fee for the initial \$150,000 deposited. Project deposits exceeding \$150,000 will be subject to a X% fee. Project deposits exceeding \$400,000 will be subject to a X% fee.
- 5.3 Where SPONSOR has agreed in writing to a different fee stipulation, said fee will supersede Paragraph 5.2.
- 5.4 SPONSOR will retain all interest earned on the Project Fund.
- 5.5 SPONSOR will charge the Artist or the Project Fund directly for any liabilities or direct expenses it incurs on behalf of the Project, including but not limited to bank charges and postage fees.
- 5.6 SPONSOR will have no right to deduct administrative fees from moneys not coming into the Project Fund. Fees and charges apply to money received by SPONSOR.

Liability and Insurance

- 6.1 The Artist is liable for all debts and obligations authorized by the Artist or incurred in good faith by SPONSOR on behalf of the Project's behalf during the term of this Agreement.
- 6.2 Artist shall indemnify, release, and hold harmless SPONSOR, its agents, employees, officers, directors, successors and assigns, from and against any and all claims, loss, damage, and liability, however caused, including reasonable attorney's fees, resulting from or arising out of, wholly or in part: (a) the Project, including, but not limited to, Artist's failure to perform in a timely manner, regardless of whether such failure was caused by intentional or negligent acts or omissions of SPONSOR or a third party, (b) any act or omission of Artist, its agents, vendors, subcontractors, members or employees; and (c) any claim that any materials used by Artist infringe any intellectual property rights or other rights of any third party.
- 6.3 The Artist shall cause the Project to obtain such insurance as SPONSOR may require and shall, upon SPONSOR's request, cause any such policy to specify SPONSOR as a named insured under the policy.

Termination

- 7.1 This Agreement will terminate on _____. Any extension of the Agreement term must be requested in writing in advance of the date of termination by the Artist. An extension can only be granted through written consent from SPONSOR.
- 7.2 This Agreement will be subject to review every XX months and will terminate if any of the following occurs:
 - (a) SPONSOR requests that the Artist cease activities that it deems might jeopardize its tax-exempt status and the Project fails to comply within a period of XX days.
 - (b) The Artist fails to perform or observe any other covenant of this Agreement, where such failure continues after XX days of written notice from SPONSOR.

- 7.3 At its sole discretion, SPONSOR may terminate the Agreement for any reason. The Agreement will terminate upon written notification from SPONSOR to the Artist.
- 7.4 The termination of the Agreement will not annul any obligations incurred prior to the date of termination. The Artist will be responsible for fulfilling all the requirements entered into under this Agreement, including but not limited to final reports.
- 7.5 Except for amounts due SPONSOR pursuant to Article 5 hereof, no amounts shall be disbursed from the Project Fund to or for the benefit of the Artist or the Project during the 10-day or 15-day periods referred to in section 7.1 unless the SPONSOR request is complied with or the failure in question is corrected, as the case may be, before such period has expired.
- 7.6 In the event that this Agreement is terminated, funds remaining in the Project Fund shall not be transferred to any person or entity without written consent from SPONSOR and shall be restricted to transfer to a 501(c)(3) organization, and consistent with any agreement SPONSOR may have entered into for the Project.

Miscellaneous

- 8.1 This Agreement will supersede any prior oral or written understanding between the parties, and may not be amended or modified except in writing signed by both parties.
- 8.3 This Agreement shall be governed by and construed in accordance with the laws of the State of New York applicable to agreements made and to be performed entirely within such State.

In witness whereof, the parties hereto have executed this Agreement on the day and year first written above.

Accepted for SPONSOR:

 NAME
 Title

Date: _____

Accepted for the Project:

Date: _____