



**ART EXPERIENCE AGREEMENT**

This ART EXPERIENCE AGREEMENT ("Agreement") is entered into this \_\_\_\_ day of \_\_\_\_\_, 20\_\_, ("Effective Date") by and between Electric Hands, Inc., a New York corporation having its principal place of business at 260 East 138<sup>th</sup> Street Bronx, NY 10454 ("Artist"), and \_\_\_\_\_, an Individual having residence at \_\_\_\_\_ ("Collector") with respect to the exclusive license of an artwork ("Work").

WHEREAS, the Artist has created the Work and has full right, title, and interest therein; and

WHEREAS, the Artist wishes to grant an exclusive license to the Work to Collector so that the Collector may possess and display the Work; and

WHEREAS, the Collector has viewed the Work and wishes to receive an exclusive license to possess and display the Work; and

WHEREAS, the Artist wishes to have a continuing relationship with the Work after its exclusive license, including the right to borrow the Work periodically for exhibition, perform services or provide products related to or concerning the Work if desirable or necessary, receive a residual payment if the Work is sublicensed, and have the creator of the Work acknowledged as the creator of the Work; and

WHEREAS, both parties wish to maintain the integrity of the Work and prevent its destruction;

NOW, THEREFORE, in consideration of the foregoing premises and the mutual obligations, covenants, and conditions hereinafter set forth, and other valuable considerations, the parties hereto agree as follows:

I. The Work.

A. The Artist describes the Work as follows:

Title: \_\_\_\_\_

Medium: \_\_\_\_\_ Size: \_\_\_\_\_

Year of Creation: \_\_\_\_\_ Signed by Artist: [ ] Yes [ ] No

Framing or Mounting: \_\_\_\_\_

If the Work is part of a limited edition:

indicate the method of production \_\_\_\_\_;

the size of the edition \_\_\_\_\_;

how many multiples are signed \_\_\_\_\_; how many are unsigned \_\_\_\_\_;

how many are numbered \_\_\_\_\_; how many are unnumbered \_\_\_\_\_;

how many proofs exist \_\_\_\_\_;

the quantity of any prior editions \_\_\_\_\_; and  
whether the master image has been canceled or destroyed [ ] yes [ ] no.

B. Collector may exchange the Work once within three (3) years after the effective date during the term of this Agreement for another artwork of equivalent size, nature and value owned and possessed by Artist at the time of exchange. All costs of effectuating the exchange, including but not limited to delivery costs, are the sole responsibility of the Collector. If Collector desires to exchange the Work according to this Section I.B., Collector shall provide Artist with commercially reasonable notice and time to complete the exchange.

II. License. Subject to each of the terms and conditions of this Agreement, Artist hereby grants (a) an exclusive personal and non-transferable, except in accordance with Section V below, license to Collector to possess the Work in the United States and (b) a non-exclusive personal and non-transferable, except in accordance with Section V below, license to Collector under copyrights contained in the Work necessary to possess and publicly display the Work. Nothing in this Agreement shall be construed to constitute a grant to Collector of any rights in the Work other than those expressly granted in this Section. This Agreement shall not limit, restrict or conflict with Collector's rights in the Work which derive from other licenses from Artist, including, but not limited to, Artist's license of the copyrights contained in the Work under the GNU General Public License, if Artist so licenses those copyrights.

III. Payment and Consideration.

A. In partial consideration for this license, Collector agrees to provide Artist or Artist's designees (up to 6 individuals) the following agreed upon experiences on or prior to the date indicated:

- i. \_\_\_\_\_ [description of experience] to be provided on or by \_\_\_\_\_ [date]
- ii. \_\_\_\_\_ [description of experience] to be provided on or by \_\_\_\_\_ [date]
- iii. \_\_\_\_\_ [description of experience] to be provided on or by \_\_\_\_\_ [date]

Any and all rights in materials or works, including but not limited to images or video, created during the experiences are the sole property of Artist, whether or not created by Artist, and Collector hereby consents to and waives and releases Artist from any claims related to the copying, modification, publication, distribution, public performance or public display of such materials or works.

B. Collector shall pay Artist a yearly Provenance Maintenance Fee of \$ \_\_\_\_\_, to be paid no less than thirty (30) days after each anniversary of the Effective Date during the term of this Agreement.

C. Collector shall pay any applicable sales or transfer taxes. Collector hereby represents and warrants that all provided experiences comply with applicable laws, rules and regulations.

D. Collector shall pay all expenses during experiences, including travel to, from, and during an experience, and any expenses for special preparations required to participate in an experience.

IV. Delivery. [Artist] [Collector] shall arrange for delivery of the Work to the following location:

\_\_\_\_\_ no later  
than \_\_\_\_\_, 20\_\_\_\_\_. The expenses of delivery (including, but not limited  
to, insurance and transportation) shall be paid by Collector.

V. Sublicense. With the prior written consent of Artist, Collector shall have the right to sublicense its rights and obligations hereunder in exchange for experiences or a combination of experiences and cash or cash equivalents. Upon sublicense of the Work, Collector shall pay Artist either (a) 25% percent of the cash or cash equivalents received in consideration of the sublicense or (b) \$\_\_\_\_\_ in addition to experiences equivalent to the experiences provided as consideration hereunder, as Artist may elect in its sole discretion.

VI. Term and Termination. This Agreement shall begin on the Effective Date and shall terminate upon occurrence of one of the following: (a) Collector materially breaches any provision of this Agreement, including, but not limited to, Collector's failure to provide the experiences listed in Section III by the agreed to date; (b) Collector returns possession of the Work to Artist in condition equivalent to the condition of the Work when Collector received the Work from Artist and Artist accepts the return of possession of the Work; (c) Collector files or states an intention to file a voluntary petition in bankruptcy or is declared bankrupt by reason of a voluntary or involuntary bankruptcy proceeding, which proceeding, if involuntary, is not dismissed within one hundred twenty (120) days after the date of filing; or (d) the Work is destroyed. Upon termination of this Agreement for any reason, Collector shall immediately return the Work to Artist, at Collector's sole expense, in no event more than thirty (30) days after the date of termination of this Agreement. If the Work is returned to Artist in condition not equivalent to the condition of the Work when Collector received the Work, Collector shall pay Artist the cost to restore the Work to its original condition within thirty (30) days after the date of termination. If the Work is not returned to Artist, Collector shall pay Artist the greater of (a) fair market value of the Work on the date during the term of this Agreement which the Work had the highest fair market value, or (b) \$\_\_\_\_\_.

VII. Artist's Right of First Refusal. Collector shall offer Artist the right to provide any services or products related to or concerning the Work desired or felt necessary by Collector ("Services"), including, but not limited to, framing, insurance, maintenance or restoration, on the same terms and conditions offered to Collector by any third party service or product provider ("Third Party Provider"). Collector shall notify Artist no less than 30 days prior to Collector's desired receipt of Services of Collector's desire to receive Services. Such notice shall set forth a detailed description of the Services desired and, if Collector desires to receive those Services from a Third Party Provider, the exact terms and conditions under which the Services are proposed to be provided by such Third Party Provider. Artist and Collector shall negotiate in good faith the terms under which Artist will provide the desired Services to Collector; provided, however, that, in Artist's sole discretion, Artist may elect to provide the Services on the same terms and conditions proposed by any Third Party Provider. Artist shall notify Collector of its desire to provide the desired Services within 21 days of receipt of the notice from Collector of Collector's desire to receive Services. Upon Artist's failure to do so or Artist's notification to Collector that Artist elects to not provide the desired Services, Collector may receive the desired Services from the Third Party Provider who proposed to provide the Services according to Collector's notice to Artist on terms no more favorable to the Third Party Provider than those offered to Artist. If Collector, in compliance with this section and this Agreement, receives Services from any Third Party Provider, Collector shall consult with Artist with respect to the receipt of those Services.

VIII. Risk of Loss and Insurance. The risk of loss or damage to the Work and the provision of any insurance to cover such loss or damage shall be the responsibility of Collector from the time of receipt of the Work by Collector.

IX. Copyright and Reproduction. Artist reserves all rights, including but not limited to reproduction rights and the right to claim statutory copyright, in the Work. The Work may not be photographed, sketched, painted, or reproduced in any manner whatsoever without the express, written consent of the Artist. All approved reproductions shall bear the following copyright notice: © by (Artist's name) (Year \_\_\_\_).

X. No Destruction; Integrity; Attribution. Collector shall not destroy the Work or permit the Work to be destroyed without first offering to return possession of the Work to the Artist or his or her successors in interest. Collector shall not distort, mutilate, or otherwise alter the Work. In the event such distortion, mutilation, or other alteration occurs, whether by action of Collector or otherwise, Artist shall, in addition to any other rights and remedies, have the right, in Artist's sole discretion, to have his or her name removed from the Work and no longer have it attributed to Artist as its creator. Artist shall, at all times, have the right to have the creator's name appear with the Work and to have the creator be acknowledged as the Work's creator.

XI. Right to Exhibit. Artist may temporarily take back possession of the Work for up to three (3) months once every three (3) years for exhibition. Artist shall give the Collector written notice no later than \_\_\_\_ days before the opening of the exhibition and shall provide satisfactory proof of insurance and prepaid transportation. All expenses of the temporarily taking back of possession by Artist shall be paid for by Artist.

XII. DISCLAIMER. ARTIST DOES NOT MAKE, AND HEREBY EXPRESSLY DISCLAIMS, ANY WARRANTIES, EXPRESS, IMPLIED, STATUTORY OR OTHERWISE, CONCERNING ANY SUBJECT MATTER OF THIS AGREEMENT, INCLUDING, WITHOUT LIMITATION, THE WORK. SPECIFICALLY, BUT WITHOUT LIMITING THE FOREGOING, ARTIST MAKES NO EXPRESS OR IMPLIED WARRANTY OF MERCHANTABILITY, FITNESS (FOR A PARTICULAR PURPOSE OR OTHERWISE), QUALITY OR USEFULNESS CONCERNING THE WORK, OR THAT THE POSSESSION OR DISPLAY OF THE WORK WILL NOT RESULT IN THE INFRINGEMENT OF ANY COPYRIGHT, TRADEMARK OR OTHER RIGHTS OF ANY THIRD PARTY. IN NO EVENT SHALL ARTIST BE LIABLE TO COLLECTOR OR ANY THIRD PARTY IN RESPECT OF ANY CLAIM UNDER ANY TORT, CONTRACT, STRICT LIABILITY, NEGLIGENCE OR OTHER THEORY FOR ANY INDIRECT, INCIDENTAL, CONSEQUENTIAL, PUNITIVE, SPECIAL OR EXEMPLARY DAMAGES, EVEN IF IT HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES, OR FOR ANY AMOUNTS IN EXCESS OF ONE HUNDRED DOLLARS (\$100).

XIII. General. Collector shall not sell, transfer or assign any of Collector's rights or obligations under this Agreement to any third party except (a) by sublicense in accordance with the terms of this Agreement or (b) if Collector pays a transfer fee to Artist of \$\_\_\_\_\_ and the transfer is in connection with (i) the death of the Collector, (ii) an assignment by Collector to a family member of Collector or (iii) a bequest by Collector, and any attempt to do so shall be null and void. This Agreement sets forth and constitutes the entire understanding between Artist and Collector with respect to the subject matter hereof, and supercedes any and all prior agreements, understandings, promises and representations made by either party to the other concerning the subject matter hereof and the terms applicable hereto. This Agreement may not be released, discharged, amended or modified in any manner except by an instrument in writing signed by duly authorized representatives of Artist and Collector. Subject to the foregoing, this Agreement, and each and every provision hereof, shall be binding upon and shall inure to the benefit of the parties and their permitted successors and assigns. The failure of Artist or Collector to insist, in any one or more instances, upon the performance of any of the terms, covenants or conditions of this Agreement or to exercise any right hereunder, shall not be construed as a waiver or relinquishment of the future performance of any such term, covenant or condition or the future exercise of such right, or as a waiver of any other rights

under this Agreement or otherwise. If one or more provisions of this Agreement are held to be illegal, invalid or unenforceable under applicable law, such provision shall be modified or excluded from this Agreement in the jurisdiction where such law applies, to the minimum extent necessary so that the balance of this Agreement shall remain in full force and effect and enforceable. In addition, Artist and Collector shall use best efforts in such an event to amend this Agreement so that its effect remains as close as possible to the original intent of Artist and Collector. This Agreement shall be deemed to have been entered into and shall be governed by, construed and enforced in accordance with the laws of the State of New York, without regard to the choice of laws rules thereof, and the sole jurisdiction and venue for actions related to the subject matter hereof shall be conducted in the state or federal courts in closest proximity to New York County, New York.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed as of the Effective Date.

|           |       |      |       |
|-----------|-------|------|-------|
| Artist    | _____ | Date | _____ |
| Collector | _____ | Date | _____ |