

Agreement relating to the Production of an Artistic Work

Between the undersigned:

The Centre d'art
Legal form:
Address of registered office:
Represented by:
Acting as:

Hereinafter referred to as the "**Centre d'art**"

On the first part,

and

The Artist
Address:

SIRET number / MDA number/ Social Security number:

Hereinafter referred to as the "**Artist**"

and

The Gallery¹
Legal form:
n° RCS:
Address of registered office:
Represented by:
Acting as:

Hereinafter referred to as the "**Gallery**"

On the second part,

ARTICLE 1: PURPOSE OF THE AGREEMENT

The **Centre d'art** is organizing an exhibition entitled, from MM|DD|YY to MM|DD|YY, in VENUE
(IF THE EXHIBITION IS EXTRA-MURAL (*HORS LES MURS*), SPECIFY THE NAME AND ADDRESS OF THE ENTITY HOSTING THE EXHIBITION)

The **Artist** has agreed to take part in this exhibition and to execute one or several artistic work(s) to be shown publicly therein.

The **Centre d'art** will contribute to the production of THIS/THESE artistic work(s) and to the remuneration of the **Artist** in the conditions set out hereafter

**ARTICLE 2:
DESCRIPTION OF THE ARTISTIC WORK(S)**

The artistic work, which is the subject of this agreement, is entitled:

Description of the artistic work²: MEDIUM:

SIZE:

MATERIALS:

INSTALLATION PROTOCOL:

A more detailed description of the artistic work is, or shall be, set forth in annex to this agreement.

The provisional production budget is EUR³.

This artistic work will be executed in:

A UNIQUE COPY

..... COPIES

(SERIES OR LIMITED EDITION, SPECIFY THE FORMATS). SPECIFY HERE HOW MANY COPIES WILL BE PRODUCED UNDER THE AGREEMENT AND WHETHER OTHER COPIES ALREADY EXIST AND, IF SO, SPECIFY WHO IS THE OWNER THEREOF AND IF IT IS A PUBLIC PERSON.

**ARTICLE 3:
DEADLINE TO COMPLETE THE ARTISTIC WORK**

The **Artist** undertakes to create the artistic work described above and to make this artistic work available to the **Centre d'art** by MM|DD|YY.

**ARTICLE 4:
COSTS OF PRODUCTION OF THE ARTISTIC WORK**

The **Centre d'art** will bear the costs of production of the artistic work(s) in accordance with the terms hereinafter defined:

The **Centre d'art** will make premises available to execute the artistic work(s).

The **Centre d'art** will bear the accommodation and travel costs of the **Artist** under the terms hereinafter defined:
.....

Purchase of the supplies and materials, orders of services by the **Artist** and reimbursement of the expenses incurred upon presentation of an expense account, along with the original purchase invoices, up to a maximum of EUR (all taxes included) or by direct payment of the suppliers by the **Centre d'art** up to a maximum of EUR (all taxes included)⁴.

**ARTICLE 5:
OBLIGATIONS OF THE CENTRE D'ART**

The **Centre d'art** shall make available to the **Artist**, within a sufficient period, before the opening of the exhibition, the premises of the exhibition, as well as its personnel for installing the artistic work on the exhibition site. The terms under which said premises will be made available by the **Centre d'art** to the **Artist** shall be agreed by parties.

The **Centre d'art** undertakes to comply with the prescriptions of the **Artist** with respect to the exhibition of the artistic work, to the extent that the agreed budget and the technical and logistics possibilities of the venue allow.

The **Centre d'art** undertakes to submit to the **Artist**, if he/she is not represented, or to his/her **Gallery**, any proposal to acquire the artistic work which the **Centre d'art** may become aware of.

**ARTICLE 6:
PROPERTY OF THE ARTISTIC WORK**

It expressly agreed by the parties that the financial and/or material contribution of the **Centre d'art** to the production of the artistic work shall not entail any transfer of property to the benefit of the **Centre d'art**.

The **Artist** shall be the owner of the artistic work produced in connection with this agreement.

**ARTICLE 7:
ASSIGNMENT OF THE EXPLOITATION RIGHTS ON THE ARTISTIC WORK**

The **Artist** represents to the **Centre d'art**:

- that he/she is not a member of any civil collective management company (*société civile de perception et de répartition des droits d'auteur*).
- that he/she is a member of the SAIF.
- that he/she is a member of the ADAGP.
- that he/she is a member of the SCAM.

In all cases, the **Artist** guarantees that he/she does have the ability to assign the copyrights listed below. If it is not the case, if the **Artist** has entrusted to a *société civile de perception* one of the rights which are the subject of the agreement, he/she undertakes to obtain the express and written consent of the *société d'auteur* to this agreement prior to the signature thereof.

7.1 EXHIBITION OF THE ARTISTIC WORK

The **Artist** hereby assigns, on an exclusive basis, for the duration and the venue of the exhibition, as defined in article 1 of this agreement, the rights of communication of its artistic work to the public, as set out in article L. 122-2 of the French Intellectual Property Code.

7.2 SECONDARY EXPLOITATIONS

The **Artist** hereby assigns, on a non-exclusive basis, and subject to article 12 of this agreement, for the entire world and for a term of, the reproduction and communication rights that are exclusively intended to ensure the promotion of the exhibition and the artistic policy of the **Centre d'art**, and listed exhaustively as follows:

7.2.1 THE ABOVE MENTIONED REPRODUCTION RIGHTS SHALL INCLUDE:

- the right to reproduce the artistic work in a catalogue⁵ or in any other book edited by the **Centre d'art** in the context of its activities: the **Artist** shall give his/her consent on each draft and shall be deemed to have given his/her consent in the absence of any response on his/part within a one week-period.
- the right to reproduce the artistic work on any communication medium (posters, flyers, invitations), strictly intended for the promotion of the artistic work or books in which the artistic work is reproduced, including for the purposes of representing the artistic work on the internet. The **Artist** shall give his/her consent on each draft and shall be deemed to have given his/her consent in the absence of any response on his/part within a one week-period.

7.2.2 THE ABOVE MENTIONED COMMUNICATION RIGHTS SHALL INCLUDE:

- the right to represent the artistic work on the website of the **Centre d'art**, in a low-definition format (not exceeding 72 dpi) that does not allow the identical reproduction of the artistic work.
- the right to communicate all or part of the artistic work, in full or in excerpts, by any communication means which exist or which may be developed, including by television broadcasting and public communication by way of terrestrial means, cable, satellite, digital communication and transmissions in a public or private place of the broadcast of the work.

**ARTICLE 8:
REMUNERATION OF THE ARTIST**

8.1. REMUNERATION FOR THE EXECUTION AND THE EXHIBITION OF THE ARTISTIC WORK

The **Artist** will receive EUR....., Tax Excluded (EUR.....All Taxes Included), as fees in consideration of the execution of the artistic work for the exhibition thereof in the context of this agreement, and in consideration of his/her taking part in the execution of the exhibition. One half of this sum shall be paid for upon the signature of this agreement and the other half at the opening of the exhibition.

With respect to any payment of remuneration under these copyrights, the **Artist** will specify whether or not he/she is subject to VAT and shall provide his/her social security status⁶. Consequently, the sums provided for in this agreement shall be considered as net sums.

8.2. REMUNERATION OF THE COPYRIGHTS

In consideration of the assignment of the rights provided for in article 7, the **Artist** shall receive copyrights, whether directly or via his/her *société d'auteur*. If the parties intend that certain of these assignments for secondary exploitations be entered into for free, the **Artist** shall bring the evidence of the consent of his/her *société d'auteur* to the **Centre d'art**, prior to the signature of this agreement.

With respect to any payment of remuneration under these copyrights, the **Artist** will specify whether or not he/she is subject to VAT and shall provide his/her social security status⁶. Consequently, the sums provided for in this agreement shall be considered as net sums.

8.2.1 EXHIBITION OF THE ARTISTIC WORK

(select as applicable)

Free exhibition of one or several artists:

On the understanding that the admission to the exhibition defined in article 1 is free, and in accordance with the provisions of article L. 131-4 1° of the French Intellectual Property Code, the **Artist** shall receive a fixed remuneration of EUR..... for the exhibition of his/her artistic work. The **Artist** represents that he/she expressly accepts this fixed remuneration.

Exhibition of several artists:

On the understanding that the exhibition defined in article 1 shows artistic works of several artists, that the costs associated with the calculation and control operations would be out of proportion with the results to be achieved⁷, in accordance with the provisions of article L. 131-4 3° of the French Intellectual Property Code, the **Artist** shall receive a fixed remuneration of EUR..... for the exhibition of his/her artistic work. The **Artist** represents that he/she expressly accepts this fixed remuneration.

Paying exhibition of one artist only:

The **Artist** shall receive a proportional remuneration of % of the price paid by the public. This sum shall be paid at the same time as the accounts of the exhibition shall be reported within a deadline of 45 days after the close of the financial year.

It is expressly agreed by the parties that the **Artist** shall receive, as an advance on said remuneration, the lump and non-refundable sum of EUR..... euros (excluding VAT and MDA contributions) payable on the date of signature of this agreement to the **Artist** or, as the case may be, to his/her *société d'auteur*.

8.2.2. SECONDARY EXPLOITATIONS

Given that the secondary exploitations have no other objective than to ensure the promotion of the artistic work and are to entail no commercial exploitation, apart from the catalogue, the parties agree that:

- In consideration of the assignment referred to in article 7.2, the **Centre d'art** shall pay to the **Artist** the lump sum of EUR, of which EUR for the catalogue.
- the **Artist** shall assign the other secondary exploitation rights for free.

ARTICLE 9:

RECOVERY OF THE PRODUCTION COSTS IN THE EVENT OF THE SALE OF THE ARTISTIC WORK

•• *Case n°1*: If the artistic work or copies of the artistic work produced in the context of this agreement is sold within years following the signature of this agreement⁸, the **Artist**, if he/she is not represented, or his/her **Gallery**, undertakes to inform the **Centre d'art** thereof, upon the completion of the sale.

The **Artist**, if he/she is not represented, undertakes to repay to the **Centre d'art** the production costs incurred,

in the event that the **Artist** is represented, his/her **Gallery** undertakes to repay to the **Centre d'art** the production costs incurred,

- for their full amount⁹.
- up to EUR

within months following the receipt of the payment of the sale.

If the relationships between the **Artist** and the **Gallery** are broken off, each of the **Artist** and the **Gallery** undertakes to inform the **Centre d'art** by registered letter with acknowledgement of receipt.

•• *Case n°2*¹⁰: the **Centre d'art** does not wish to be reimbursed for the production costs.

In any event, the **Artist**, if he/she is not represented, or his/her **Gallery**, undertakes to comply with the obligation to refer to the **Centre d'art** as the producer, as provided for in article 12.

ARTICLE 10 COMMUNICATION

The **Centre d'art** shall take care, at its own expenses, of the entire communication for the promotion of the exhibition (DESCRIPTION OF THE MEANS BEING IMPLEMENTED: ADVERTISEMENTS, PRESS, CATALOGUES, INVITATION CARDS, ETC.).

The **Centre d'art** undertakes to provide the **Artist** and his/her **Gallery** with three copies of each communication medium.

The **Centre d'art** also undertakes, in the event that it would proceed to edit a book including the reproduction of artistic work which is the subject of this agreement, to provide the **Artist** with copies and copies to the **Gallery** for free.

**ARTICLE 11:
TRANSPORTATION AND INSURANCE OF THE ARTISTIC WORK**

The **Centre d'art** undertakes to bear the potential packaging and transportation costs (back and forth) up to the exhibition venue and the "nail-to-nail" insurance costs of the artistic work in declared value¹¹.

The **Centre d'art** shall be responsible for the conservation of the artistic work until the end of the exhibition.

If the **Artist** does not have a **Gallery**, and asks that the **Centre d'art** keep the artistic work beyond this term, the parties shall agree, in an amendment agreement, on the conditions of such conservation and of the liability relating thereto.

If the **Artist** is represented by a **Gallery** who is a signatory of this agreement, the **Artist** and the **Gallery** shall agree on the conditions of the conservation of the artistic work once the exhibition is closed, and shall inform in writing¹² the **Centre d'art**.

**ARTICLE 12:
MANDATORY INFORMATION**

Any representation or reproduction of the artistic work shall be accompanied by the following information:

- LAST NAME AND FIRST NAME OF THE ARTIST
- TITLE OF THE ARTISTIC WORK
- DATE OF EXECUTION
- INDICATION OF THE CENTRE D'ART AS PRODUCER
- REPRESENTED BY THE GALLERY

The obligation provided for in this article is binding on all of the parties.

**ARTICLE 13:
WARRANTY**

The **Artist** guarantees the **Centre d'art** against any trouble, claim or recourse from third parties in connection with the performance of the obligations of this agreement.

The **Artist** undertakes notably to inform the **Centre d'art** of the use in his/her artistic work of any other literary and artistic work created by a third party, whatever its nature (still images, film sequences, texts, music), so as to enable the **Centre d'art** to obtain the rights of use over these literary and artistic works from the owners or assigns and successors thereof.

Lastly, the **Artist** undertakes to obtain the authorization of the photographed and/or filmed persons for all of the exploitations referred to in this agreement, and guarantees the **Centre d'art** against any trouble as a result thereof.

The **Artist** shall deliver to the **Centre d'art** the authorizations duly signed, along with the delivery of the artistic work.

**ARTICLE 14:
TERMINATION**

If any one of the provisions of this agreement is not performed, and if a formal request to perform sent by registered letter with acknowledgment of receipt has remained unanswered after 15 (fifteen) days following the receipt thereof, this agreement shall be automatically terminated with all faults and grievances laying with the defaulting party.

ARTICLE 15:

APPLICABLE LAW, APPLICABLE JURISDICTION

This agreement is governed by French law.

Any dispute relating to the interpretation and implementation of this agreement which could not be settled amicably shall be subject to the jurisdiction of the courts of (registered office of the **Centre d'art**)¹³ i.e.; the place of performance of the agreement.

Signed in , on MM|DD|YY

In the same number of original copies as the number of parties*.

The **Centre d'art**

The **Artist**

The **Gallery**

The agreement must be signed by all of the parties and initialled on each of its pages.

- 1 If the artist is not represented by a gallery, this information shall be deleted.
- 2 Reproduce, if several literary works are produced, as many times as there are artistic works.
- 3 If the production budget changes, the parties shall sign an amendment agreement.
- 4 Select one of the two options, as appropriate, and delete as appropriate.
- 5 Please note that this agreement only covers the artistic work(s) that are produced by the Centre d'art. Consequently, the publication of a catalogue reproducing other artistic works of this artist and not covered by the agreement will require the conclusion of a new agreement providing for the assignment of the rights on the artistic works intended to be reproduced. As drafted, the agreement does not provide that the Centre d'art undertakes to make a catalogue.

6 Unless the annual certificate of "advance payment exemption" is produced at the time the remuneration is paid, the diffuser is under the obligation to assume the role of the declaring third party with the MDA with respect to the remunerations paid to an artist living and residing in France, whether or not the artist is registered with the social security regime of the artists-authors. In this respect, the Centre d'art must:

- withhold from the artistic remuneration which is due the uncapped healthcare-pension contributions, the CSG and the CRDS to be borne by the artist,

- pay back the uncapped healthcare-pension contributions, the CSG and the CRDS to the *Maison des Artistes* at the same time as the 1% contribution owed by it, by imperatively using the quarterly return

7 In the event of a dispute, it will be up to the Centre d'art to establish the reality of this disproportion between the calculation and control costs and the results to be achieved.

8 The term will have to be negotiated between the parties.

9 These will then have to be determined contractually, in the form of an amendment agreement. When drafting this amendment agreement, the parties may want to consider including the costs for storing the artistic work.

10 Delete as appropriate.

11 In exceptional cases, the artistic work may be insured for its agreed valued, if its value so requires.

12 We recommend the signature of a tripartite amendment agreement.

13 Preference shall be given to the closest court among this list of the 10 courts who are now the only ones to have jurisdiction as far as copyright is concerned.

REGISTERED OFFICE	JURISDICTION
Bordeaux	Jurisdiction of the Courts of Appeal of Agen, Bordeaux, Limoges, Pau and Toulouse.
Lille	Jurisdiction of the Courts of Appeal of Amiens, Douai, Reims and Rouen.
Lyon	Jurisdiction of the Courts of Appeal of Chambéry, Grenoble, Lyon and Riom.
Marseille	Jurisdiction of the Courts of Appeal of Aix-en-Provence, Bastia, Montpellier and Nîmes.
Nanterre	Jurisdiction of the Court of Appeal of Versailles.
Nancy	Jurisdiction of the Courts of Appeal of Besançon, Colmar, Dijon, Metz et Nancy.
Paris	Jurisdiction of the Courts of Appeal of Bourges, Paris, Orléans, Nouméa, Papeete, Saint-Denis and of the superior appeal tribunals of Mamoudzou and Saint-Pierre.
Rennes	Jurisdiction of the Courts of Appeal of d'Angers, Caen, Poitiers and Rennes.
Fort-de-France	Jurisdiction of the Courts of Appeal of Basse-terre and Fort-de-France.

This agreement relating to the production of artistic work was drafted by Maître Agnès Tricoire and initiated by the Cipac, *Fédération des professionnels de l'art contemporain*, in partnership with d.c.a. *association française de développement des centres d'art*. It was drawn up in lien with the *Comité professionnel des galeries d'art*, the FRAAP and the following trade unions:

The *Alliance française des designers* (AFD)

The *Comité des artistes auteurs plasticiens* (CAAP)

The *Syndicat national des Artistes plasticiens CGT* (SNAPcgt)

The *Syndicat national des Sculpteurs et plasticiens* (SNSP)

The *Union des Photographes professionnels* (UPP)