

McMillen Industries

Artist Contract

This agreement is made on this 5 day of January ²⁰¹⁶ ~~2015~~ between Adam McMillen of McMillen Industries (hereinafter called the "Artist") and Downtown Community of Columbia, MO (hereinafter called the "client"). Improvement District

In consideration of the mutual promises and agreements of the parties hereto, as herinafter set forth, it is agreed as follows:

1. COPYRIGHT. The Artist retains all rights under the Copyright Act of 1976, 17 U.S.C., Sections 101, et. seq., and all other rights in and to the Artwork, except ownership and possession and except as such rights are limited by this Section 1 and by Section 2.

(a) This Section 1 does not prevent the Owner from giving its permission for the Artwork to be reproduced in other publications that are offered for sale, provided that the Owner receives no payment for such permission. The Owner is not responsible for any third party infringement of Artist's copyright and is not responsible for protecting the intellectual property rights of the Artist.

2. REPRODUCTION

(a) Since it is the intention of the parties that the Artwork as accepted by the Owner shall be unique, the Artist hereby agrees not to make an exact duplicate or three dimensional reproduction of the final Artwork or permit others to do so except by written permission of the Owner.

(b) The Artist hereby grants to the Owner and its assigns an irrevocable license to make photographs, drawings, and other two dimensional reproductions of the Artwork for noncommercial purposes without prior consent of the Artist, including but not limited to reproductions used in advertising, art books or art videos, brochures, history books or history videos, media publicity, and the Owner's

portfolio of public art, catalogues or other similar publications, provided that these rights are exercised in a reasonable manner.

3. ARTIST CREDIT.

The Owner shall provide and install a plaque on or near the Artwork containing a credit to the Artist.

4. GUARANTEE. The Artist does hereby guarantee that said Artwork shall be free from

any and all defects of any kind and nature in material, workmanship, fabrication and installation, and the Artist shall provide the necessary materials and labor for, and shall bear any expenses in connection with repair of such defects of which the Artist is given written notice by the Owner within two years from the date of the Owner's final acceptance of the Artwork. The Artist will not be responsible for damage resulting from fire, vandalism or acts of God.

5. ORIGINAL WORK. The Artist warrants that the Artwork designed for the Owner under this Contract is a unique or original project of the Artist's creative efforts; that it is an edition of one, unless otherwise stated; and that it has not been nor will be for sale or installed elsewhere.

6. LIABILITY. The Artist shall save and hold harmless the Owner and its agents with respect to any damages which may be alleged to have arisen from any acts or omissions of the Artist, or agents or employees of Artist, alleged to have been done during the term of this Contract, and further waives any rights against the Owner for any and all injuries or damages alleged to have arisen during the term of this Contract.

7. INSURANCE. The Artist, at the time the work is installed on site until completion thereof, at the Artist's sole cost and expense, shall obtain, furnish and maintain in full force and effect a liability insurance policy to protect the Owner against any and all claims for personal and property injury, including death arising

from the work, with the limits as approved by the Owner, issued by an insurance company licensed by, and qualified to do business in, the State of Missouri.

8. RISK OF LOSS. The Artist shall bear the risk of loss or damage to the Artwork until the Owner's final acceptance of the Artwork. The Artist shall take such measures as are reasonably necessary to protect the Artwork from loss of damage prior to the Owner's final acceptance of the Artwork.

9. ACCEPTANCE OF ARTWORK. The Artist shall notify the Owner in writing when Artist has completed the design, fabrication, and installation of the Artwork in accordance with the design and specifications listed in the scope of services. Within 15 business days of receiving notice of the completion of the Artwork the Owner shall notify the Artist of its final acceptance or rejection of the Artwork. The effective date of the Owner's final acceptance shall be the date of the Owner's written notice of its final acceptance.

10. COMPLIANCE WITH LAWS. The Artist shall comply with all applicable laws, ordinances, and codes of the State of Missouri and the City of Columbia.

The Owner shall provide to the Artist a list of applicable required permits and approvals, and other existing relevant data uniquely known to the Owner, if any, which is needed by Artist to perform under this Contract.

11. CHANGES. All changes to this Contract shall require a written agreement signed by all parties prior to any change.

12. TERMINATION. The Owner may, by written notice to the Artist, terminate this Contract in whole or in part at any time, either for the Owner's convenience or because of the failure of the Artist to fulfill the Artist's contractual obligations.

(a) If termination is for the convenience of the Owner, the Artist shall be entitled to the full \$24,000.00 less an amount equal to expenses anticipated to be incurred by the Artist at the time of execution of this Contract .

(b) Except as set forth in section 13 below, if termination of this Contract is due to the failure of the Artist to fulfill the Artist's contract obligations, the Artist shall remit to the Owner all payments made to the Artist pursuant to this Contract prior to termination.

13. DEATH OR INCAPACITY. If the Artist becomes unable to fully perform the Artist's responsibility under this Contract due to death or incapacity, such death or incapacity will not be deemed a breach of this Contract or a default on the part of the Artist. However, nothing in this Section 14 shall obligate the Owner to accept the Artwork.

(a) In the event of incapacity, the Artist shall assign the Artist's obligations under this Contract to another artist, provided that the Owner in its sole discretion approves of the new artist. If the parties cannot agree on another artist to complete the Artwork, the Owner may elect to terminate this Contract.

(b) In the event of death, the Owner will work with the designated heir(s) or successors of the Artist to assign the Artist's obligations under this Contract to another artist, provided that the Owner in its sole discretion approves of the new artist. If the parties cannot agree on another artist to complete the Artwork, the Owner may elect to terminate this Contract.

(c) If the Owner elects to terminate this Contract pursuant to this Section 13, all materials purchased for the project or installed on site shall be the property of the Owner. The Artist or the administrator of the Artist's estate shall provide the Owner with comprehensive models and plans that will enable the Owner to complete the Artwork. The Artist shall not be entitled to further compensation and shall not be required to refund to the Owner funds previously paid to the Artist. If the Artwork is completed the Artist and the Artist's heirs and assigns shall retain all rights under Article 2 and the Artwork and any reproductions thereof shall contain a credit to the Artist and a copyright notice, provided that Artist or Artists heirs and/or assigns provide the Owner with accurate copyright information.

In the alternative, Artist or Artist's heirs/successors/assigns may elect to pay to the Owner a sum equal to all payments made pursuant to this Contract and retain ownership of all materials purchased and work done to date, and may sell or otherwise dispose of the Artwork and any product or material relating thereto at the discretion of Artist or Artist's heirs/successors/assigns.

14. REMOVAL OR DISASSEMBLAGE. The Artist understands that the Artwork is owned by the Owner. As such, at some time in the future, the Owner may move the Artwork to another location or may disassemble it. If that happens, the Owner assumes full responsibility for the moving and reserves the right to reinstall the Artwork at a different site, or to dispose of the Artwork as the Owner deems appropriate. Such a determination is the sole right of the Owner. However, the

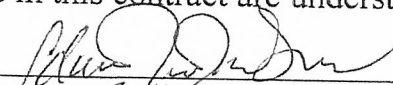
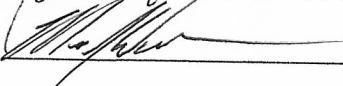
Owner will attempt to contact the Artist or the Artists heirs/successors/ assigns to obtain the views of the Artists or the Artists heirs/successors/assigns regarding relocation or disposition of the Artwork.

15. DISPUTES. This Contract is governed by the laws of the State of Missouri, and all actions shall be brought in an applicable court in Boone County, Missouri.

16. SCOPE OF SERVICES. The Artist agrees to perform the following scope of services under the contract.

- The Artist, as an independent contractor, agrees to supply preliminary design plans for the project (hereinafter referred to as "globes") found within this contract.
- The client agrees to pay, as full compensation for three globes, the estimated target budget of \$7,500 not to exceed \$8,500 as outlined by the designs in this contract.
- Design changes to the preliminary designs found in this contract that may incur additional costs will be discussed as needed.
- The Artist agrees to fabricate one large globe of the final design (maximum diameter 3'-0") and two small globes (maximum diameter 1'6").
- The Artist agrees to attend a maximum of five (5) meetings with The District, program manager and design professionals in the development of the preliminary and final design of the Light Hubs.
- The Artist agrees to assist the general contractor of the Hub Stories Phase I development plans.

The terms in this contract are understood and agreed upon by the following:

Artist  Date 1/1/2016
Client  Date 1/5/2016
Client _____ Date _____