

FISCAL SPONSORSHIP AGREEMENT – MODEL A

This Fiscal Sponsorship Agreement – Model A (the “Agreement”) is made by and between Independent Arts & Media (“Sponsor”), and [name of individual] (the “Project Founder”). Sponsor is a California nonprofit public benefit corporation recognized as exempt from federal income tax under Section 501(c)(3) of the Internal Revenue Code (“IRC”). The Project Founder is an individual with an address located at [address].

RECITALS

A. Sponsor has approved the establishment of a restricted fund to receive donations of cash and other property earmarked for support of the project known as the [name of project] Project (the “Project”) and to make disbursements in furtherance of the Project’s mission to [describe the purposes of the project], as further described in Exhibit A to this Agreement, within the range of permissible activities consistent with Sponsor’s exempt purposes and with IRC Section 501(c)(3).

B. Sponsor desires to act as the fiscal sponsor of the Project, by receiving assets and incurring liabilities identified with the Project beginning on the Effective Date as defined in Section 1, and using them to pursue the objectives for which the Project is being established, which Sponsor has determined will further its charitable purposes. The Project Founder, together with such other individuals as may be selected, acting as the Project Committee, as defined in Section 3, desire to manage the Project under the direction and sponsorship of Sponsor, as further set forth in this Agreement.

NOW, THEREFORE, THE PARTIES HEREBY AGREE AS FOLLOWS:

1. Term of Agreement. On [date you wish for agreement to take effect], 202[] (the “Effective Date”), Sponsor shall assume operation of the Project, which operation shall continue in effect unless and until terminated under Section 7 below. While this Agreement is in effect, the parties shall meet on at least an annual basis to review and discuss the status of the Agreement and Sponsor’s fiscal sponsorship of the Project.

2. Project Activities and Affiliate Policy Manual. All community programs, public information work, fundraising events, processing and acknowledgment of cash and noncash revenue items, accounts payable and receivable, negotiation of leases and contracts, disbursement of Project funds (including grants), and other activities of any kind or nature planned in connection with the Project shall be the ultimate responsibility of, be conducted in the name of, and be subject to the ultimate discretion and control of Sponsor beginning on the Effective Date. Unless otherwise agreed, and subject to their consent, all personnel to be compensated for working on the Project shall be employed by or, if properly classified, contracted with Sponsor pursuant to written agreements between such personnel and Sponsor. The Project Founder shall abide by, and shall ensure that all individuals associated with the Project when acting in support or on behalf of the Project abide by, the Model A Affiliate Policy Manual of Sponsor attached hereto as Exhibit B (the “Manual”), which Manual may be amended from time to time by Sponsor in its sole discretion with written notice to the Project Founder and which includes, in addition to other provisions, the administrative and other amounts to be allocated to the general fund of Sponsor from the restricted fund described in Section 5 below to cover the administrative and other expenses associated with Sponsor’s fiscal sponsorship of the

Project and general operations.

3. Delegation. As of the Effective Date, authority to manage the program activities of the Project is delegated by the Sponsor Board of Directors to the Project Founder, together with such other individuals as may be added from time to time with the consent of Sponsor, acting as agents of Sponsor (collectively, the “Project Committee”), subject at all times to the ultimate direction and control of Sponsor and the Sponsor Board. The Project Committee is a group of individuals that serves as a subordinate advisory body to the Sponsor Board and as an internal and integral part of Sponsor. The Project Committee may, but is not required to, delegate such authority to manage the program activities of the Project to a project director, who, if any, shall be an agent of Sponsor and shall be subject at all times to the ultimate direction and control of Sponsor and the Sponsor Board. Members of the Project Committee and/or the project director, if any, acting as agents of Sponsor, may solicit gifts, contributions, and grants to Sponsor to be identified as in support of the purposes of the Project, subject to the direction and approval of Sponsor.

a. Sponsor Discretion. The Project Founder acknowledges and understands that, as of the Effective Date and until this Agreement is terminated pursuant to its terms, the Project will be an internal program of Sponsor and all activities of the Project shall be under the ultimate discretion and control, and subject to the direction and oversight, of Sponsor. For the avoidance of doubt, the Project Founder acknowledges and understands that Sponsor shall have ultimate decision-making authority with respect to, without limitation, the following, each in connection with the Project: the hiring, review, or termination of any employee, independent contractor, or volunteer of Sponsor; the entering into, renewal or extension of, or termination of any contract or other agreement; public communications, including on any website or social media account; any and all fundraising communications and activities and the acceptance or rejection of any offered donation, grant, revenue, or other contribution to Sponsor; and any and all activities of any kind or nature or the cessation thereof. All authorized agents acting in connection with the Project are agents of Sponsor and shall only act within the scope of authority as delegated by Sponsor, and shall be subject to the ultimate direction and control of Sponsor. Should Sponsor have concerns regarding the activities of any individual(s) in connection with the Project, including, but not limited to, any potential harm to Sponsor’s goodwill or reputation, tax-exempt status, liability exposure, or financial condition, Sponsor may, in its sole discretion, take such actions with respect to the Project or such individual(s) as it deems appropriate, including, but not limited to, those listed in this Subsection.

4. Intellectual Property. Unless otherwise agreed, any tangible or intangible property, including, but not limited to, copyrights, trademarks, or other rights to or in intellectual property, obtained from third parties or created in connection with the Project shall be the property of Sponsor, held to be used for the purposes of the Project, while this Agreement is in effect. Notwithstanding the foregoing, Sponsor’s ownership and/or use of such property shall be subject to any third party rights in, and restrictions on the use of, such property.

5. Restricted Fund; Variance Power. Beginning on the Effective Date, Sponsor shall place all gifts, grants, contributions, and other revenues received by Sponsor and identified with the Project, subject to the amounts to be allocated to the general fund of Sponsor as described in the Manual, into a restricted fund to be used for the sole benefit of the purposes of the Project. Sponsor retains the unilateral right to spend such funds and use such assets so as to accomplish the purposes

of the Project as nearly as possible within Sponsor's sole judgment, subject to any donor-imposed or grantor-imposed restrictions, as to purpose, on the charitable use of such assets. The parties agree that all money, and the fair market value of all property, in the restricted fund be reported as the income of Sponsor, for both tax purposes and for purposes of Sponsor's financial statements. It is the intent of the parties that this Agreement be interpreted to provide Sponsor with variance powers necessary to enable Sponsor to treat the restricted fund as Sponsor's asset in accordance with Accounting Standards Codification ("ASC") paragraphs ASC 958-605-25-25 and -26, formerly expressed in Statement No. 136 issued by the Financial Accounting Standards Board, while this Agreement is in effect. Because the restricted fund is held under the charitable trust doctrine for the purposes of the Project as understood by and with funding sources, the parties intend that assets in the restricted fund are not subject to the claims of any creditor or to legal process resulting from activities of Sponsor unrelated to the Project.

6. Performance of Charitable Purposes. All of the assets received by Sponsor under the terms of this Agreement shall be devoted to the purposes of the Project, within the charitable purposes of Sponsor. Expenditures for any attempt to influence legislation within the meaning of IRC Section 501(c)(3) or any other applicable law, rule, or regulation shall be subject to limitations imposed by Sponsor in its sole discretion. Sponsor shall not use any portion of the assets 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). Sponsor has determined that the restricted fund is not a donor-advised fund within the meaning of IRC Section 4966(d)(2) as presently interpreted under federal tax authorities.

7. Termination.

a. Immediate Termination. This Agreement may be terminated by Sponsor immediately if Sponsor determines in its discretion that (1) the objectives of the Project have been fully accomplished or the Project is no longer active; (2) there are insufficient funds remaining in the restricted fund held for the purposes of the Project; (3) the Project is not being operated in compliance with the Manual, this Agreement, or other procedures or requirements of Sponsor; or (4) the activities in connection with the Project pose any unacceptable risk or potential of harm to Sponsor. If Sponsor terminates this Agreement as described in this Subsection, Sponsor may take any actions it deems appropriate with respect to the Project's activities and may dispose of the remaining assets and/or liabilities held by Sponsor in connection with the Project, in its sole discretion, in any manner consistent with applicable tax and charitable trust laws.

b. Transfer to a Successor. If the objectives of the Project can still reasonably be accomplished, but either Sponsor or the Project Founder desires to terminate Sponsor's fiscal sponsorship of the Project for any reason, the terminating party shall provide a written notice of termination to the other party. Once such written notice of termination of this Agreement is provided, the Project Founder will have sixty (60) days to find another nonprofit corporation which is (i) tax-exempt under IRC Section 501(c)(3); (ii) not classified as a private foundation under IRC Section 509(a); and (iii) willing and able to sponsor the Project (a "Successor"). The ability to sponsor the Project shall be evidenced by having exempt purposes consistent with the purposes of the Project and the administrative and financial capacity to competently and lawfully manage the Project, as determined by

Sponsor. If the Project Founder has formed a nonprofit corporation, it may be proposed as the Successor as long as it meets all of the above requirements. Any proposed Successor must be approved in writing by Sponsor before the end of the sixty (60) day period (or such extension as is provided by Sponsor) to be eligible. If a Successor is found and agreed to by the parties within sixty (60) days (or such other period as determined by Sponsor), the balance of assets held by Sponsor in its restricted fund for the purposes of the Project (less the amounts to be allocated to the general fund of Sponsor as described in the Manual and any amount held back by Sponsor in its sole discretion to cover any known or unknown outstanding costs or liabilities), together with any other tangible and intangible assets held or liabilities incurred (whether known or unknown) by Sponsor in connection with the Project, shall be transferred to the Successor pursuant to a separate written transfer agreement and subject to the approval of any third-parties that may be required.

i. This Agreement will terminate upon the earlier of (1) the expiration of the sixty (60) day notice period or any extension thereof as set forth above, or (2) the transfer of the balance of assets held by Sponsor in its restricted fund for the purposes of the Project (less the amounts to be allocated to the general fund of Sponsor as described in the Manual and any amount held back by Sponsor in its sole discretion to cover any known or unknown outstanding costs or liabilities), together with any other tangible and intangible assets held or liabilities incurred (whether known or unknown) by Sponsor in connection with the Project, to a Successor. If no Successor is found within the sixty (60) day notice period or any extension thereof as set forth above, this Agreement shall terminate and Sponsor may dispose of the assets and/or liabilities held by Sponsor in connection with the Project, in its sole discretion, in any manner consistent with applicable tax and charitable trust laws. If the parties mutually wish to earlier terminate this Agreement without identifying a Successor, they may do so in a writing signed by both parties.

ii. During the sixty (60) day notice period or any extension thereof, as during any other time in which this Agreement is in effect, Sponsor may, in its sole discretion, take such actions with respect to the operation of the Project as it deems appropriate. Such actions may include, but are not limited to, terminating any employee, independent contractor, or agent of Sponsor in connection with the Project; suspending all activities and public communications of the Project; terminating or ceasing entering into contracts or agreements in connection with the Project; and/or refusing to accept any offered donation, grant, revenue, or other contribution for the purposes of the Project.

8. Miscellaneous. In the event of any controversy, claim, or dispute between the parties arising out of or related to this Agreement, or the alleged breach thereof, the prevailing party shall, in addition to any other relief, be entitled to recover its reasonable attorneys' fees and costs of sustaining its position. 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. This Agreement shall be interpreted and construed in accordance with the laws of the State of California applicable to contracts to be performed entirely within such State. The parties agree that all arbitrations, actions, suits, or proceedings arising in connection with this Agreement shall be brought and litigated exclusively in any state or federal court located in the City and County of San Francisco, California. Time is of the essence of this Agreement and of each and every provision

hereof. This Agreement shall not be deemed to create any relationship of agency, partnership, or joint venture between the parties hereto, and no party shall make such representation to anyone. The failure of Sponsor to exercise any of its rights under this Agreement shall not be deemed a waiver of such rights.

9. Indemnification. The Project Founder will indemnify, defend, and hold harmless Sponsor and its officers, directors, agents, employees, successors, and permitted assigns from and against any and all losses, claims, suits, proceedings, liabilities, expenses (including reasonable attorneys' fees and expenses), causes of action, damages, and costs (collectively "Claims") arising out of or caused by negligence, gross negligence, or willful misconduct of the Project Founder or its officers, directors, agents, employees, successors, or permitted assigns or from any material breach of this Agreement by the Project Founder. If Sponsor is entitled to indemnification under this Section, it will give prompt notice to the Project Founder of any Claim with respect to which it seeks indemnification, but the failure to so notify the Project Founder shall not relieve the Project Founder of any liability except to the extent that it is actually prejudiced by such delay. The Project Founder shall assume, at its sole cost and expense, the defense of such Claim with counsel reasonably satisfactory to Sponsor. The Project Founder will not be subject to any liability for any settlement made without its consent. The Project Founder shall not, without consent of Sponsor, effect any settlement or discharge or consent to the entry of any judgment, unless such settlement or judgment includes as an unconditional term thereof the giving by the claimant or plaintiff to Sponsor of a general release from all liability in respect of such claim or litigation. Notwithstanding anything herein to the contrary, the indemnification provisions of this Section 9 shall survive any termination of this Agreement.

10. Notice. Any notice, demand, delivery, or other communication required or permitted pursuant to this Agreement shall be in writing and shall be deemed to be properly given if delivered in person or mailed by first class or certified mail, postage prepaid, or sent by email in the manner provided in this Section, to the following persons:

To Project Founder: []
[address]
Telephone: []
Email: []

To Sponsor: Independent Arts & Media
Attn: Lisa Burger
P.O. Box 420442, San Francisco, CA 94142
Telephone: (415) 738-4975
Email: admin@artsandmedia.net

A party may change its address or other contact information by giving notice in writing to the other party. If sent by mail, notice shall be effective or deemed to have been given three (3) days after it has been deposited in the United States mail, duly registered or certified, with postage prepaid. If sent by email, notice shall be effective or deemed to have been given at the time it is transmitted. For purposes of calculating these timeframes, weekends, and federal holidays shall be excluded.

11. Entire Agreement; Counterparts. This Agreement constitutes the only agreement, and supersedes all prior or contemporaneous agreements and understandings, both written and oral,

between the parties with respect to the subject matter hereof. All Exhibits hereto are a material part of this Agreement and are incorporated herein by reference. This Agreement, including any Exhibits hereto, may not be amended or modified, except in a writing signed by all parties to this Agreement; provided, however, that the Manual of Sponsor attached here to Exhibit B may be amended by Sponsor from time to time in its sole discretion with written notice to the Project Founder. This Agreement may be executed in counterparts, each of which shall be deemed an original, but all of which shall constitute one and the same instrument.

12. Assignment. This Agreement may not be assigned or otherwise transferred, including by operation of law, by the Project Founder without the prior written consent of Sponsor.

13. Receipt of Agreement. By signing this Agreement, the Project Founder acknowledges that they have received a complete copy of this Agreement and all Exhibits hereto.

14. Authority. Each undersigned represents and warrants by their signature that they have the power, authority, and right to bind their respective party to each of the terms of this Agreement.

IN WITNESS WHEREOF, the parties have executed this Fiscal Sponsorship Agreement – Model A effective as of the Effective Date.

INDEPENDENT ARTS & MEDIA

[NAME OF PROJECT FOUNDER]

By: _____
Lisa Burger, Executive Director

By: _____
Name

Dated: _____

Dated: _____

EXHIBIT A

DESCRIPTION OF PROJECT

EXHIBIT B

**MODEL A AFFILIATE POLICY MANUAL OF
INDEPENDENT ARTS & MEDIA**

See attached.