

**LEASE AGREEMENT
BETWEEN THE CITY OF SANTA FE AND
GEORGIA O'KEEFFE MUSEUM INNOVATIONS, INC.**

This LEASE AGREEMENT (Lease Agreement) is made and entered into this 1st day of JUNE, 2018 by and between the CITY OF SANTA FE, a municipal corporation (Lessor) and GEORGIA O'KEEFFE MUSEUM INNOVATIONS, INC., a New Mexico corporation (Lessee), collectively the "Parties".

WITNESSETH:

In consideration of Lessee's promises herein, Lessor hereby gives Lessee a Lease Agreement, revocable and terminable as hereinafter provided, to enter on, occupy, make use of, and improve the real property of Lessor as follows:

1. PREMISES

Lessor allows Lessee to use, occupy, and improve, subject to the terms and conditions of this Lease Agreement, that certain portion of the existing city-owned building known as the "Southwest Annex" located at 1600 St. Michael's Drive, Building 5 on the campus of the Santa Fe University of Art & Design in the City of Santa Fe consisting of approximately 1,775 square feet (the Premises), as more fully described and shown on Exhibit A attached hereto and incorporated herein. Lessee accepts the Premises in its present state and agrees that it is in good condition, without any representation or warranty by Lessor as to the condition of the Premises or as to the use which may be made thereof.

2. EFFECTIVE DATE

This Lease Agreement shall become effective June 1, 2018 (the Effective Date).

3. LEASE TERM

The term of this Lease Agreement shall commence at 12:00 a.m. on the Effective Date. The term of this Lease Agreement shall be three (3) months and shall terminate at 11:59 p.m. on August 31, 2018 (the Term).

In the event Lessee remains in possession of the Premises after the expiration of the Term of this Lease Agreement, such possession may, at the sole option of Lessor, be continued as a month-to-month tenancy. During any such month-to-month tenancy, the Rent due shall be prorated and payable on a monthly basis, and the terms and conditions of the Lease Agreement shall be otherwise applicable.

4. USE OF PREMISES

A. Conditions of Use. Lessee shall use the Premises solely for the specific purpose of storage and assembly of Lessee's products subject to the following conditions:

i. Lessee shall take steps to limit the noise associated with its operations so as not to disturb Lessor's other tenant(s) in the building;

ii. Lessee shall place no signage of any kind on the exterior of the Southwest Annex building or on the grounds;

iii. Lessee's staff and visitors shall park in the existing parking lot immediately northeast of the Premises.

iv. Lessee shall distribute keys to the Premises only to its employees and shall return all

keys to Lessor at the end of the Term.

B. Improvement of the Premises. Lessee may, with the prior written consent of Lessor and at no cost to Lessor, make minor improvements to the Premises as it deems necessary in furtherance of the intended use of the Premises as provided in Section 4.A above. Lessee shall remove all such improvements made to the Premises at the termination of this Lease Agreement.

C. Trade Fixtures. All trade fixtures installed by Lessee after the Effective Date of this Lease Agreement shall remain the property of Lessee, who may remove the same upon termination of this Lease Agreement, provided that removal shall be done in such a manner as not to injure or damage the Premises.

In the event that Lessee fails to remove said trade fixtures after receipt of notice from Lessor to do so, Lessor may remove and dispose of the same as it sees fit and Lessee agrees to sell, assign, transfer and set over to Lessor all of Lessee's right, title and interest in and to said trade fixtures and any personal property not removed by Lessee. Lessee further agrees that should Lessor remove said trade fixtures pursuant to this paragraph, that Lessee shall pay Lessor upon demand the cost of such removal, plus the cost of transportation and disposal thereof.

D. Repairs and Maintenance. Lessee shall not cause or permit any waste, damage or injury to the Premises or to any improvements made to the Premises. Lessee shall, at its sole expense, keep and maintain the Premises in good and clean condition at all times and shall be responsible for the costs of any and all required repairs, maintenance, and replacements that arise during the Term of this Lease Agreement. Repairs, maintenance, and replacements required to be made by the Lessee shall be made promptly as and when necessary and shall be at least equal in quality of materials and workmanship to that originally existing in the Premises.

Lessor reserves the right to inspect the Premises at any time during the Term of this Lease Agreement to verify Lessee's compliance with this Section 4.D. In the event Lessee fails to maintain the Premises at a standard acceptable to the Lessor, as determined in Lessor's sole discretion, Lessor may terminate this Lease Agreement in accordance with Section 12 herein.

E. Compliance with Laws. Lessee's use of the Premises shall at all times be in compliance with the City of Santa Fe Municipal Code and other applicable local, state and federal regulations including but not limited to compliance with the City of Santa Fe Integrated Pest Management Policy (§10-7 SFCC 1987) (the Pest Management Policy).

5. RENT

Lessee, for and in consideration of this Lease Agreement and the demise of the Premises by Lessor to Lessee, hereby agrees and covenants with Lessor to pay for said Premises the fair market rent of **\$1,627.00** per month (the Rent).

Rent is due on the Effective Date and thereafter due on the first day of each month during the Term of this Lease Agreement without notice or demand and without deduction or offset for any cause whatsoever. Rent payments shall be made payable to Lessor and delivered to Lessor at the following address:

City of Santa Fe
P. O. Box 909, Santa Fe, NM 87504
Attn: Asset Development Office

6. UTILITIES & SERVICES

Beginning on the Effective Date and until the termination of this Lease Agreement, the

responsibility and costs for providing utilities and services to the Premises shall be the responsibility of the Parties as specified below:

A. Responsibility of Lessor. All natural gas, electricity, domestic water, and sanitary sewer service shall be provided to the Premises by Lessor.

B. Responsibility of Lessee. All telephone, cable or satellite television, wired or wireless internet, security alarm services, solid waste collection services, and cleaning services shall be coordinated or performed and paid for by Lessee. Any utilities or services not specified herein shall be the responsibility of the Lessee.

7. TAXES

Lessee shall pay all taxes levied and assessed, if any, upon any personal property, fixtures and improvements belonging to Lessee and located upon the demised Premises, and all leasehold and possessory interest taxes levied or assessed by any proper taxing authority.

8. SUBLEASE, ASSIGNMENT OR TRANSFER

Lessee shall not sublet, assign or otherwise transfer this Lease Agreement, without the prior written consent of Lessor, which Lessor may withhold for any or no reason. Any such actions taken by Lessee without Lessor's prior written consent shall result in the immediate termination of this Lease Agreement. Should Lessor consent to partial sublet of the Premises, Lessor may require such conditions that Lessor in its sole discretion deems necessary to protect the Premises.

9. INSURANCE

Lessee shall at all times maintain and provide adequate insurance coverage which includes, without limitation, each of the following:

A. Casualty Insurance. Lessee shall carry and maintain in full force and effect during the term of this Lease Agreement casualty insurance ("extended coverage" and "additional extended coverage") as may be available for all improvements to the Premises in an amount sufficient to restore and replace existing structures and improvements if lost or damaged by any form of casualty. Lessee shall cause the City of Santa Fe to be named as an additional insured on such policy of insurance.

B. Liability Insurance. Lessee shall carry and maintain in full force and effect during the Term of this Lease Agreement, public liability insurance covering bodily injury and property damage, in a form and with an insurance company acceptable to Lessor, with limits of coverage not less than as stated in the New Mexico Tort Claims Act for each person injured and for each accident resulting in damage to property, against all claims and lawsuits arising from Lessee's use of the Premises. Lessee shall cause the City of Santa Fe to be named as an additional insured on such policy of insurance.

C. Workman's Compensation Insurance. Lessee shall carry and maintain in full force and effect during the Term of this Lease Agreement, workers' compensation insurance at statutory limits for its employees working at the Premises. Lessee shall cause the City of Santa Fe to be named as an additional insured on such policy of insurance.

D. Certificates of Insurance. Prior to the Effective Date of this Lease Agreement, and thereafter at any time during the Term of this Lease Agreement that Lessor requests, Lessee shall provide Lessor with certificates of insurance for each policy evidencing that the coverage required hereunder is current. Such policy shall provide that the coverage evidenced thereby shall not be terminated or modified for any reason without thirty (30) days prior written notice to the Lessor. A

certificate or policy which states that failure to give such notice imposes no obligation on the part of the insurer shall be unacceptable to Lessor, and Lessee shall be responsible for removing such language from such certificate or policy.

10. INDEMNIFICATION

Lessee shall indemnify, hold harmless and defend Lessor from all losses, damages, claims or judgments, including payment of all attorney's fees and costs, on account of any suit, judgment, execution, claim, action or demand whatsoever arising from damages occurring on the Premises and Lessee's use of the Premises hereunder, including use of the Premises by Lessee's employees, agents, representatives, contractors, agents, guests, invitees or permitted assigns. Lessee shall cause any and all agreements that Lessee enters into with any of the above parties to contain language indemnifying Lessor as provided in this Section.

11. EASEMENTS

Lessor reserves the exclusive right to grant access, utility or other easements on or through the Premises. Lessor shall notify Lessee in writing prior to Lessor's grant of any easement through the Premises.

12. TERMINATION

A. Lessor may terminate this Lease Agreement upon Lessee's failure to comply with any provisions contained herein. Prior to termination, Lessor shall hand deliver or mail notice to Lessee via certified or registered mail specifying:

- i. the breach;
- ii. the action required to cure the breach;
- iii. a date, not less than fifteen (15) days from the date the notice is hand delivered or mailed to Lessee, by which such breach must be cured; and
- iv. that failure to cure such breach on or before the date specified in the notice will result in termination of the Lease Agreement.

B. Lessee may terminate this Lease Agreement with written notice to Lessor at least thirty (30) days prior to the termination date.

13. NOTICE

Any required notice will be deemed delivered, given and received (i) when personally hand delivered, or (ii) five days after the same are deposited in the United States mail, postage prepaid, registered, addressed to the applicable party at the address indicated below for such party, or at such other address as may be designated by either party in a written notice to the other party:

To Lessor:

City Manager
City of Santa Fe
P. O. Box 909
Santa Fe, NM 87504

To Lessee:

Robert A. Kret, Executive Chair/President
Georgia O'Keeffe Museum Innovations, Inc.
217 Johnson Street
Santa Fe, NM 87501

14. NO WAIVER

No waiver of a breach of any of the provisions contained in this Lease Agreement shall be construed to be a waiver of any succeeding breach of the same or any other provisions.

15. SEVERABILITY

In the event that one or more of the provisions contained in this Lease Agreement or any application thereof shall be invalid, illegal or unenforceable in any respect, the validity, legality and enforceability of the remaining provisions contained herein and any other application thereof shall not in any way be affected or impaired thereby.

16. ENTIRE AGREEMENT

The foregoing constitutes the entire Lease Agreement between the Parties, represents their entire understanding, and defines all of their respective rights, title and interests as well as all of their duties, responsibilities and obligations. Any and all prior lease agreements and understandings between the Parties related to the Premises, if any, are merged herein. This Lease Agreement shall not be modified or amended except by a written document signed by the Parties.

17. BINDING EFFECT

This Lease Agreement shall be binding upon and insure to the benefit of the Parties hereto and their respective successors and permitted assigns.

18. LITIGATION EXPENSE

In the event of litigation between the Parties, Lessee shall pay any necessary costs, including reasonable attorney's fees, expenses and other costs of collection or otherwise, which Lessor shall incur in enforcing this Lease Agreement or in recovering any and all damages caused to the Premises by Lessee, or Lessee's contractors, agents, employees or permitted assigns.

19. HEADINGS

The section headings contained in this Lease Agreement are for reference purposes only and shall not affect the meaning or interpretation of this Lease Agreement.

20. APPLICABLE LAW; VENUE

In any action, suit or legal dispute arising from this Lease Agreement, Lessee agrees that the laws of the State of New Mexico shall govern. The Parties agree that any action or suit arising from this Lease Agreement shall be commenced in a federal or state court of competent jurisdiction in New Mexico. Any action or suit commenced in the courts of the State of New Mexico shall be brought in the First Judicial District Court.

21. AMENDMENT

This Lease Agreement shall not be altered, changed or modified except by an amendment in writing executed by the Parties hereto.

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[SIGNATURES APPEAR ON THE FOLLOWING PAGE.]

1ST day of JUNE, 2018.

CITY OF SANTA FE


ERIK LITZENBERG

YOLANDA Y. VIGIL
YOLANDA Y. VIGIL, CKTY CLERK

Geno I. Zamora ASS'T City Attorney for

Kent Deyoung
KENT D. DEYOUNG, INTERIM FINANCE DIRECTOR

BUSINESS UNIT.LINE ITEM:
51910.460150


ROBERT A. KRET,
EXECUTIVE CHAIR/PRESIDENT

[illegible]

The foregoing instrument was acknowledged before me this 31st day of May 2018, by Robert A. Kret, Executive Chair/President, a New Mexico corporation.

My Commission Expires: 4/23/22
(SEAL)

Melvin D. Byers
NOTARY PUBLIC

