

SAMPLE ARTIST - FABRICATOR

PROJECT AGREEMENT

This Project Agreement ("Agreement") is made and effective on DATE by and between **Kathryn Davis, Davis Studios Inc. ("Artist")** and **Art Welders Inc. ("Fabricator")**.

- 1. Project Scope, Products Produced & Cost.** Fabricator agrees to the following:
 - a. Product - Build Armature for sculpture based on specs provided by Artist set forth below in Schedule A.
 - b. Estimated Cost - \$1,000.
 - c. Any material changes to the specs will result in increased costs and delay in delivery.
- 2. Payment & Delivery Schedule.**
 - a. 50% Deposit due upon signing Agreement.
 - b. Estimated time for delivery is 14 business days after 50% deposit received.
 - c. Balance due upon delivery.
- 3. Intellectual Property.**

Artist Ownership. Artist shall exclusively own all right, title, and interest in and to, and all patents, copyrights, trademarks, trade secrets and other intellectual property rights (the "Intellectual Property Rights") related to:

 - a. Products, and all manufacturing processes, know-how and other information and materials provided by Artist to Fabricator before and after the Effective Date of this Agreement (the "Information"), including information to design, manufacture, or test of the Products;
 - b. any molds and any fixtures ("Tooling") needed for or used in the production of the Product(s) ("Product Tooling") and that are purchased by the Artist.

Upon the termination of this Agreement, Fabricator shall return to Artist or, in Artist's discretion, destroy all Product Tooling in Fabricator's possession, custody, or control.

Fabricator Ownership. Fabricator shall exclusively own all right, title and interest in and to, and all Intellectual Property Rights related to:

- a. all know-how, technology, processes, procedures, ideas and concepts developed by Fabricator for manufacturing products ("Fabricator Processes");
- b. any modifications, enhancements, and improvements to the Fabricator Processes created by Fabricator during the term of this Agreement; and
- c. any non-Product specific Tooling created by Fabricator during the term of this Agreement ((a), (b), and (c) collectively, "Fabricator Rights").

4. Termination of the Agreement.

Upon material breach by either party of its obligations under this Agreement, the other party may terminate the Agreement if the breach remains uncured for more than thirty (30) days after a party gives written notice of the breach.

5. Warranties.

Fabricator warrants to Artist that, on the date of delivery, the Product will conform to the specifications detailed in Schedule A of the Agreement.

All other warranties, express or implied, including without limitation, warranties of merchantability and fitness for a particular purpose are hereby excluded.

6. Indemnification.

Fabricator shall defend, indemnify, and hold Artist, its officers, directors, employees, and agents harmless against any and all claims, demands, proceedings, losses, damages, obligations, liabilities, deficiencies, fines, costs, or expenses (including, without limitation, reasonable attorneys' fees) (collectively, "Losses") arising directly or indirectly as a result of, or

relating to, (a) any material breach of this Agreement by Fabricator or its officers, trustees, employees, or agents; (b) any negligence by Fabricator in the manufacture of the Product or any failure to manufacture the Product in accordance with the Product Specifications; or (c) any negligence or wrongful acts of Fabricator or its officers, trustees, employees, or agents, except to the extent that any such Losses are due to the negligence or wrongful acts of Artist, its officers, trustees, employees, or agents.

Artist shall defend, indemnify, and hold Fabricator, its officers, directors, employees, and agents harmless against any and all claims, demands, proceedings, losses, damages, obligations, liabilities, deficiencies, fines, costs, or expenses (including, without limitation, reasonable attorneys' fees) (collectively, "Losses") arising directly or indirectly as a result of, or relating to (a) defects in the Product Specifications, or (b) Fabricator's complying with the Product Specifications, except to the extent that any such Losses are due to the negligence or wrongful acts of the Fabricator, its officers, trustees, employees, or agents; or (c) any negligence or wrongful acts of Fabricator or its officers, trustees, employees, or agents, except to the extent that any such Losses are due to the negligence or wrongful acts of Fabricator, its officers, trustees, employees, or agents.

7. Insurance.

Fabricator shall maintain the following insurance during the term of this Agreement:

- a. Commercial General Liability, including blanket contractual liability, broad form property damage, product made under manufacturing agreement and completed operations, independent contractors, and premises/operations, in amounts of not less than \$1 million per occurrence, \$1 million in aggregate.
- b. Comprehensive Automobile Liability, including owned, non-owned and hired vehicles, in amounts of not less than \$1 million per occurrence.
- c. Worker's Compensation Insurance in amounts of not less than \$500,000 per occurrence

8. Limitation of Liability.

EXCEPT AS SET FORTH OTHERWISE IN THIS AGREEMENT, IN NO EVENT SHALL EITHER PARTY BE LIABLE TO THE OTHER FOR ANY INCIDENTAL, CONSEQUENTIAL, SPECIAL OR PUNITIVE DAMAGES OF ANY KIND OR NATURE ARISING OUT OF THIS AGREEMENT OR THE SALE OF PRODUCT, WHETHER SUCH LIABILITY IS ASSERTED ON THE BASIS OF CONTRACT, TORT (INCLUDING THE POSSIBILITY OF NEGLIGENCE OR STRICT LIABILITY), OR OTHERWISE, EVEN IF THE PARTY HAS BEEN WARNED OF THE POSSIBILITY OF ANY SUCH LOSS OR DAMAGE, AND EVEN IF ANY OF THE LIMITED REMEDIES IN THIS AGREEMENT FAIL OF THEIR ESSENTIAL PURPOSE

9. Confidentiality.

Confidential Information. “Confidential Information” includes all information of or about a party including all information relating to any technology, product, process, or intellectual property of such party (including, but not limited to, owned or licensed intellectual property rights, data, know-how, samples, technical and non-technical materials, and specifications) as well as any business plan, financial information or other confidential commercial information of or about such party.

No Confidential Information of Other Parties. Each party represents and warrants to the other that it has not used and shall not use during its performance hereunder, and shall not disclose to the other, any Confidential Information of any third party, unless it is expressly authorized in writing by such third party to do so.

10. No Performance. This agreement is based on time worked not on a performance basis. We do not guarantee that these efforts will ensure that the products will sell.

11. Miscellaneous.

Force Majeure. In the event that either party is prevented from performing or is unable to perform any of its obligations under this Agreement (other than a payment obligation) due to any Act of God, fire, casualty, flood, earthquake, war, strike, lockout, epidemic, destruction of production facilities, riot, insurrection, or any other cause beyond the reasonable control of the party invoking this section, and if such party shall have used its commercially reasonable efforts to mitigate its effects, such party shall give prompt written notice to the other party, its performance shall be excused, and the time for the performance shall be extended for the

period of delay or inability to perform due to such occurrences. Regardless of the excuse of Force Majeure, if such party is not able to perform within ninety (90) days after such event, the other party may terminate the Agreement. Termination of this Agreement shall not affect the obligations of either party, which exist as of the date of termination.

Dispute Resolution. All disputes arising between the parties that are not resolved to the parties' reasonable satisfaction shall be submitted to non-binding arbitration before the American Arbitration Association, pursuant to the rules of the American Arbitration Association.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date first above written.

Inc.	[Artist] – Kathryn Davis	[Fabricator] – Art Welder
	Date	Date
	Signature	Signature

SCHEDULE A – DESCRIPTION OF WORK TO BE DONE