

## DRAFT FOR CONSIDERATION

### DISPLAY AGREEMENT

**THIS AGREEMENT** made this \_\_\_\_\_ day of January, 2015

#### **BETWEEN**

**INDIA HABITAT CENTRE**, a society formed under the Societies Registration Act, 1860, with its registered office at Lodhi Road, New Delhi- 100 003 (hereinafter also referred to as "**IHC**" which expression shall include its successors and assigns) through Shri \_\_\_\_\_ , \_\_\_\_\_, India Habitat Centre, of the ONE PART

AND

**Mr./Ms.** \_\_\_\_\_, Indian inhabitant, resident of \_\_\_\_\_ (hereinafter referred to as the "**Artist/Owner**" which expression shall include his/her heirs, legal representatives and permitted assigns), of the OTHER PART

(IHC and the Artist / Owner are hereinafter referred to individually as a "Party" and collectively as the "Parties")

#### **WHEREAS**

1. Under an arrangement made between IHC and the Delhi Metro Rail Corporation ("DMRC"), IHC and DMRC have agreed to work together inter-alia to promote the cause of bringing Art in the domain of common public. With that objective, DMRC has allotted to IHC, exhibition spaces for display of art works at the Mandi House Metro Station and Jorbagh Metro Station, hereinafter referred to, both singly and collectively, as "Exhibition Space". IHC has at its own cost adapted and endowed the Exhibition Space for display of art works and related publicity, inter-alia by creating backlit panels and wall portions equipped with lights and G channels, and launched the project "Art in the Metro" for display of art works at the Exhibition Space.

2. Being desirous of having his/her art works exhibited by IHC at the Exhibition Space at the said Metro Stations or any of them, the Artist / Owner approached and offered to IHC and IHC agreed to exhibit the original/reproductions / prints of Artist's / Owner's art works selected by IHC and described in the Schedule hereunder for display at the Exhibition Space at \_\_\_\_\_ Metro station (the originals of the said art works being hereinafter referred to both singly and collectively as "Art Work", and the reproductions/prints thereof being hereinafter referred to both singly and collectively as "Exhibit") on the terms and conditions, which have been mutually agreed between the Parties and are set out hereinafter.

**NOW THEREFORE THIS AGREEMENT WITNESSETH** as under:-

**1. GRANT OF RIGHTS TO IHC:**

In consideration of IHC selecting the Art Work/ Exhibit of the Artist/Owner for display under its "Art in the Metro" project at the Exhibition Space, free of any charge, the Artist / Owner grants IHC a license to exhibit and display the Exhibit i.e. the original/reproduction/print of the Art Work/ Exhibit, using the logo/banner of IHC, at the Exhibition Space during a period of \_\_\_\_\_ or as decided by IHC in its own discretion ("agreed period"), either solely or collectively with the art works or reproduction/prints thereof of some other artist/s. IHC shall also have right to make, use and issue photographs and other reproductions of the Art Work/ Exhibit in any material form or medium and to communicate the Art Work/ Exhibit to the public for the limited purposes of publicity and promoting interest in and awareness of the exhibition and display at the Exhibition Space amongst the public and for cataloguing such exhibition and display in IHC's journals, reports, promotional materials (including but not limited to calendars, etc) and other IHC papers and documentation. IHC shall give credit to the Artist / Owner for the Art Work/ Exhibit.

## **2. REPRESENTATIONS AND WARRANTIES:**

The Artist / Owner represent and warrant that:

- 2.1 the Artist / Owner is the owner of copyright in the Art Work/ Exhibit, Exhibit of which are offered for display and ,that the Artist / Owner has full rights to enter into this Agreement with IHC and confer various rights upon IHC upon the terms and conditions contained in this Agreement;
- 2.2 that the Art Work/ Exhibit does not in any manner whatsoever infringe or violate any other person's intellectual property rights; and
- 2.3 that the Art Work/ Exhibit does not offend the requirements of any law relating to defamation, public morality, obscenity/indecent representation, privacy, etc.

## **3. DISPLAY MATERIALS, DISPLAY:**

- 3.1 The Artist / Owner agree that IHC shall have complete authority over the Exhibition Space including the contents of any display case or other display materials and installation at the Exhibition Space.
- 3.2 The Artist / Owner declares that, she/he has viewed the Exhibition Space and has satisfied himself/herself in regard to its suitability for display of his/her Art Work/ Exhibit i.e. reproduction/print of his/her Art Work. The Artist/Owner further declares that display of the Exhibit at the Exhibition Space shall not constitute a distortion, mutilation, modification or other act in relation to the Art Work/ Exhibit prejudicial to the Artist's / Owner's honour or reputation.

## **4. EXHIBITAND EXHIBITION SPACE-INSTALLATION, REMOVAL, MAINTENANCE AND OTHER OBLIGATIONS:**

- 4.1 The Artist / Owner shall bear the cost of designing, framing and printing the Art Work/ Exhibit to be exhibited at the Exhibition Space. The Artist/Owner shall bring the Exhibit to the Exhibition Space on the date specified by IHC. The IHC shall be solely

- responsible for installing/ mounting/ dismounting/ dismantling/removing the Exhibit of the Art Work/ Exhibit.
- 4.2 The Artist / Owner shall be responsible for maintenance of the Art Work/ Exhibit at the Artist/Owner's own cost and risk during the entire period of The IHC shall not be responsible for any damage/theft . If required the Artist/Owner should take insurance at her/his own cost and also provide security at her/his own cost if the Artist/Owner considers this necessary.
  - 4.3 The Artist/Owner shall provide to IHC sufficient information in English and Hindi languages about the Art Work/ Exhibit, for use along with display of the Exhibit.
  - 4.4 The Artist / Owner understands that the display has to be put up in the Exhibition Space as they exist and there can be no alteration of the Exhibition Space to accommodate the Artist / Owner including but not limited to any painting of the walls.
  - 4.5 The IHC shall remove the Art Work/ Exhibit from the Exhibition Space at the expiry of the period of display or on earlier termination of this Agreement and hand it over to the owner/artist. The Artist / Owner recognizes and is well aware that there are no storage facilities available at either the Metro stations or elsewhere for storage of the Exhibitor any other belongings of the Artist / Owner and agrees that neither IHC nor DMRC shall be required to provide any storage for purposes of this Agreement. In any event, the Artist / Owner will be solely responsible for any belongings brought by it to the Metro stations and neither IHC nor DMRC nor any of their employees, agents, associates, consultants and volunteers whatsoever shall be responsible for any loss or damage to the same.

## **5. NO COMMERCIAL ACTIVITY:**

The Artist / Owner shall not engage in any commercial activity at the Exhibition Space or otherwise in connection with the display at the Exhibition Space. Without prejudice to the generality of the foregoing, the Art Work/ Exhibit will not be for sale at the Exhibition Space nor the prices thereof will be posted at the Exhibition Space. No advertising will also be permitted at the site. However a mention of the name of the sponsor shall be allowed and the wording of this shall be approved by IHC.

## **6. ADVERTISING AND PROMOTION:**

IHC will not be bound to advertise or promote the display of the Exhibit at the Exhibition Space. Without prejudice to the foregoing:

- 6.1 All write-ups concerning the Art Work/ Exhibit to be placed at the Exhibition Space and otherwise in regard to such display will be prepared by IHC or under IHC's control and supervision, including but not limited to advertising the same in any manner including through any banners, in any news media or through social media.
- 6.2 The Artist / Owner may give his/her promotional information including posters, catalogue, photographs, press releases etc to IHC within one week of execution of this Agreement if not done earlier, to facilitate inclusion in IHC calendar of events and IHC website along with a writing giving full rights to IHC to utilize the same for advertising and promotion including rights to use or edit the information provided as thought fit by IHC and the same may be used by IHC in its sole discretion.

## **7. NO LIABILITY:**

- 7.1 The Artist/Owner declare that he/she is fully aware of the possible risks associated with the display of his/her Art Work/ Exhibit at the Metro stations.
- 7.2 The Artist / Owner agrees and declares that neither IHC nor DMRC nor any of their officials, officers, employees, agents, associates, consultants or volunteers whatsoever shall or can be responsible or held liable howsoever for any loss, injury or damage to the Art Work/ Exhibit or to the person or property of the Artist/Owner or of its employees, agents, representatives, etc. including but not limited on account of theft, vandalism, mutilation, wear and tear on account of operation of DMRC trains, electrical short circuits, chemical pollution, water and fire damage, Force Majeure. For the purposes of this Agreement, "Force Majeure" shall mean any event beyond the control of IHC and DMRC and will include

without limitation war, terrorist attack, riots, civil unrest, national emergency, labour disputes, demonstrations, and protests, weather conditions including grains, sun, wind and natural calamity such as floods, lightning strike and earthquakes. The Artist / Owner will not be entitled to seek any damages, compensation or any other remedy whatsoever.

7.3 The Artist / Owner will only look to its own insurance for any claims of loss or damage.

**8. INDEMNITY:**

The Artist / Owner shall indemnify and hold harmless IHC and DMRC and their officials, officers, employees, agents, associates, consultants or volunteers whomsoever against all claims, damages, notices, actions, proceedings whatsoever arising from or connected with or related to the Art Work/ Exhibit including but not limited to the content of the Art Work/ Exhibit and copyright and other rights in the Art Work/ Exhibit, whether by way of infringement, passing off, defamation, damages or otherwise. The Artist / Owner agrees and declares that neither IHC nor DMRC are in any way responsible for the Art Work and the entire responsibility for the same rests with the Artist / Owner.

**9. OBLIGATIONS TO SURVIVE ASSIGNMENT/SALE:**

Further the Artist/Owner confirms that the obligations for display of his/her Art Work/ Exhibit hereunder during the agreed period and the other rights granted to IHC under this Agreement shall survive and be not affected at all by any sale of the Art Work/ Exhibit or assignment or grant of any license in the copyright or other rights in the Art Work/ Exhibit.

**10. NO CONTROL OVER PHOTOGRAPHY/RECORDINGS:**

The Artist / Owner understands and recognizes that a Metro station is frequented every day by hundreds of people and that notwithstanding restrictions if any imposed, the display of the Exhibit at the Exhibition Space may entail photographs/visual recordings being taken of Art Work/ Exhibit /complete display by any number of persons. The Artist / Owner agrees not to hold IHC or DMRC or any of their officials, officers, employees, agents,

associates, consultants, volunteers whatsoever liable in any manner for such photography/recording and/or its use.

## **11. TERMINATION:**

11.1 The Artist / Owner agrees that notwithstanding anything to the contrary herein contained, IHC at its sole discretion is entitled to terminate this Agreement earlier than the agreed period, by a simple written notice to the Artist/Owner, forthwith, without having to give any reason. The Artist/Owner agrees that on such termination, he will forthwith remove the Exhibit from the Exhibition Space and that he shall not be entitled to seek any damages, compensation or other remedy whatsoever in respect of such earlier termination.

11.2 The Artist/Owner is not entitled to terminate this Agreement earlier than the agreed period except for a breach on the part of IHC which remains unremedied for a period of one week after a written notice specifying the breach complained of and requiring its remedy would have been served upon IHC by the Artist /Owner.

11.3 This Agreement will also come to an end earlier than the agreed period, in the event of any Force Majeure as defined in clause 7.2 above, resulting in destruction or damage to the Exhibition Space and/or the Exhibit. It is understood that in such event no liability what so ever shall attach to any Party hereto and/or to DMRC.

## **12. NOTICES:**

12.1 Any notice given under this Agreement shall be in writing and may be served personally or by registered AD post, at the respective addresses of the Parties stated herein above in this Agreement, unless a change in address is notified later on by a Party in the same manner as provided in this clause.

12.2 A notice will be deemed to be sufficiently given when addressed to the respective addressees of the Parties specified hereunder:

In the case of Artist / Owner- \_\_\_\_\_

In the case of IHC- The Director, India Habitat Centre

12.3 The notice shall be deemed to have been served:

If it was served in person, at the time of service; and

If it was served by registered AD post, 72 hours after it was posted.

**13. DISPUTE RESOLUTION:**

All disputes arising between the Parties under this Agreement shall be amicably settled between the Parties in the first instance. Failing such settlement, the disputes shall be referred to arbitration of a sole arbitrator being a retired Judge of the Delhi High Court or of the Supreme Court of India, appointed by the Director, India Habitat Centre. All proceedings in arbitration shall be in accordance with the Arbitration and Conciliation Act, 1996 or any statutory modification or reenactment thereof for the time being in force. The place of arbitration shall be New Delhi, India. The Parties shall bear the costs of the arbitration equally.

**14. HEADINGS NOT TO AFFECT INTERPRETATION:**

The headings of clauses in this Agreement are only for convenience and shall not affect the interpretation of this Agreement.

**SCHEDULE ABOVE REFERRED TO**

(Description of Art Work)

IN WITNESS WHEREOF the Parties hereto have set and subscribed their hands hereto on the date and year First Hereinabove Written.

SIGNED AND DELIVERED

By the above named

INDIA HABITAT CENTRE

Through Mr. \_\_\_\_\_



its \_\_\_\_\_ and duly

authorized person in the

presence of

1. \_\_\_\_\_

2. \_\_\_\_\_

SIGNED AND DELIVERED

By the above named Artist/Owner

Mr./Ms. \_\_\_\_\_ in the

presence of

1. \_\_\_\_\_

2. \_\_\_\_\_