**EXHIBIT A – MANUAL**

**FISCAL SPONSORSHIP AGREEMENT – MODEL C**

**THIS FISCAL SPONSORSHIP AGREEMENT** **– MODEL C** (this “**Agreement**”) is made and effective as of the \_\_\_ day of \_\_\_\_\_\_\_\_\_\_\_, 20\_\_ (the “**Effective Date**”) by and between **CultureTrust Greater Philadelphia** (the “**Grantor**”), and [**Name**] (the “**Grantee**”). The Grantor and the Grantee are sometimes referred to individually herein as a “**Party**” and together as the “**Parties**.”

**RECITALS**

**WHEREAS**, the Grantor is an organization that has received recognition of, and maintains its status as, a publicly supported charity (a “**Public Charity**”) described in Section 501(c)(3) of the Internal Revenue Code of 1986, as amended (the “**Code**”), and is also a Pennsylvania charitable trust organized for charitable purposes that include providing a charitable home and shared management resources to arts and heritage programs (the “**Grantor’s Purposes**”);

**WHEREAS**, the Grantee is **[an individual] [a [State of Formation] [Type of Organization]** that has been carrying or intends to carry out a project known as **[Insert Project name]** (the “**Project**”) to [**Insert Project purposes**] (the “**Project Purposes**”);

**WHEREAS**, the Project involves: (check at least one)

|  |  |
| --- | --- |
|  | Creation of visual, literary, performance, or other art |
|  | Creation of educational materials or content |

**WHEREAS**, the Grantee has determined that carrying out the Project requires philanthropic support and has, as a result, submitted an application for the Project to be fiscally sponsored by the Grantor;

**WHEREAS**, the application submitted by the Grantee identifies \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ as the project director of the Grantee, responsible for carrying out the obligations and exercising the rights of the Grantee with respect to the Project (“**Project Director**”);

**WHEREAS**, the Grantor’s Board of Directors has determined that supporting the Project Purposes is in furtherance of Grantor’s Purposes and that the Grantor will, therefore, offer Model C fiscal sponsorship to the Grantee;

**WHEREAS**, this Agreement describes the terms and conditions for such fiscal sponsorship by the Grantor.

**AGREEMENT**

**NOW THEREFORE**, in consideration of the premises, representations, warranties, and mutual covenants contained herein, the Parties agree as follows:

* 1. **Fiscal Sponsorship.**
     1. **Grantee Responsibility.** The Grantee shall have the responsibilities described in the fiscal sponsorship manual attached as **Exhibit “A”** to this Agreement, together with any and all amendments and updates thereto provided to the Project Director in the future (such manual, amendments, and updates are, all together, the “**Manual**”). The Grantee shall use the Grants (as defined below) to carry out the Project in furtherance of the Project Purposes and in accordance with this Agreement and the Manual. The Grantee is responsible for all aspects of holding and managing the Project and any activities funded by the Grants.
     2. **Fiscal Sponsorship Activities.** The Grantor will accept funds raised for the Project Purposes, subject to the terms and conditions of this Agreement and the Manual. For the avoidance of doubt, the Parties agree and acknowledge that other than making the Grants as described in this Agreement or the Manual, the Grantor has no obligation whatsoever to provide any form of financial support for the Project, such as making loans, advancing cash, covering direct expenses, or fundraising.
     3. **Restricted Fund**. The Grantor shall establish a separate fund held within the Grantor’s entity to hold contributions made to support the Project Purposes, together with income earned on such contributions (the “**Restricted Fund**”). The Grantor has the right, but not the obligation, to hold the Restricted Fund in a separate bank account to be used for the Project Purposes. The Grantor shall own and control the Restricted Fund and all amounts therein shall be expressly restricted for the Project Purposes, including the making of the Grants for the Project Purposes. The Restricted Fund may not be used as collateral or security for any debts. The Restricted Fund is not a donor-advised fund within the meaning of Section 4966(d)(2) of the Code, and neither the Grantee nor any donor to the Restricted Fund shall have any right to advise on either the investment or distribution of any funds of Grantor, including the Restricted Fund. The Grants shall be made only from then-available amounts in the Restricted Fund (as defined below) in accordance with the Manual. Each and every provision of this Agreement will be read to avoid donor-advised fund classification of the Restricted Fund.
     4. **Property**.The Grantee shall own all tangible and intangible assets of the Project (the “**Project Property**”), subject to each of the following:
        1. During the Term and any Transition Phase (each as defined below), the ownership and use of the Project Property shall comply with this Agreement and the Manual.
        2. The Grantor’s prior written consent shall be required for the Grantee to sell, assign, transfer, sublicense, or give a third party the right to profit from any intellectual property that has been based, created, acquired, or improved in whole or in part, through use of the Grants or any derivatives thereof (such intellectual property and any and all derivatives thereof, collectively, the “**Grant-Based IP**”); provided, however, that the prior written consent of the Grantor shall not be required for the Grantee to sublicense some or all of the Grant-Based IP to vendors providing services that enable the Grantee to carry out the Project, so long as the Grantee owns all rights to any resulting intellectual property and the sublicense does not allow the vendor to re-sell or sublicense further any such Grant-Based IP. The restrictions described in this (ii) shall, together, be known as the “**Commercialization Restriction**”. The Commercialization Restriction shall be perpetual and shall survive the expiration or earlier termination of this Agreement, as well as the completion of any Transition Phase (as defined below).
        3. Any Grant-Based IP shall be made available to the public in ways customary and appropriate for that type of Grant-Based IP, either for free or for a reasonable charge. The restrictions described in this (iii) shall, together, be known as the “**Availability Requirement**”. The Availability Requirement shall be perpetual and survive the expiration or earlier termination of this Agreement, as well as the completion of any Transition Phase.
        4. To the extent that the Project involves the creation of Grant-Based IP that is educational, such Grant-Based IP shall be distributed in a manner that does not discriminate on the basis of race, color, or national or ethnic origin. The restrictions described in this (iv) shall, together, be known as the “**Non-Discrimination Requirement**”. The Nondiscrimination Requirement shall be perpetual and survive the expiration or earlier termination of this Agreement, as well as the completion of any Transition Phase.
     5. **Fundraising**. Contributions raised for the Project (“**Raised Amounts**”) and all fundraising in connection therewith shall comply with the Manual. Following deduction of amounts payable to the Grantor pursuant this Agreement or the Manual, the remainder shall be deposited in the Restricted Fund; provided, however, that if a funder does not allow deduction of the Administrative Charge or other amounts from the Raised Amounts, then the procedure described in the Manual for the payment of such amounts shall apply.
     6. **Receipt and Disbursement of Grants; Variance Power.** Assuming sufficient funds are available, the Grantee shall follow the procedure described in the Manual to request disbursement of amounts from the Restricted Fund as a grant (each a “**Grant**” and together the “**Grants**”); provided, however, that in order to receive a Grant, the Grantee must be in compliance with all of its obligations under this Agreement and the Manual, including specifically the Grantee obligations described below, and further provided that the date and amount of each disbursement of any Grant shall be within the discretion and control of Grantor. This Agreement shall be interpreted to provide Grantor with the variance power to allocate amounts form the Restricted Fund as Grantor deems necessary or appropriate to accomplish the Project Purposes including, without limitation, for Grantor to grant funds to a different organization to pursue a project in line with the Project Purposes. Grantor, in its sole discretion, shall have the right to withhold, withdraw, or demand the immediate return of any or all Grants if, in Grantor’s reasonable judgment, (i) either the Project or the Grantee cannot accomplish the Project Purpose or (ii) the Grantee breaches this Agreement, such as by failing to utilize the Grants as required by the Manual. The Grantor retains the right, in its sole discretion, to redirect amounts in the Restricted Fund to a different charitable purpose or beneficiary if the Project Purposes become unnecessary, incapable of fulfillment, or inconsistent with the charitable mission set forth in the governing documents of Grantor. The Grantee will agree to notify Grantor promptly of any suspected misuse of any of the Grants.
     7. **Substantiation of Charitable Donations.** The Parties agree that all amounts in the Restricted Fund will be reported for federal tax purposes as contributions to the Grantor. Receipt of Raised Amounts shall be acknowledged as described in the Manual. Upon request by donors, the Grantor shall furnish evidence of the Grantor’s status as a charitable organization described under Section 501(c)(3) of the Code.
     8. **Administrative Charge.** The Grantor will be paid an administrative charge to cover the costs associated with its management of the Raised Amounts, supervision of the Restricted Fund, and other administrative expenses associated with the fiscal sponsorship arrangement. As of the Effective Date, the administrative charge shall consist of (i) 7% of all Raised Amounts, plus (ii) a fixed fee of $50 per calendar month. The administrative fee shall be subject to change and adjustment as provided in the Manual.
     9. **Project Director**. The Grantee hereby appoints Project Director to be the Grantee’s agent and representative to the Grantor with respect to the Project, such that Grantor shall be entitled to rely upon the representations, warranties, covenants of Project Director with respect to the Project. The Grantee represents and warrants that the appointment of Project Director has been duly authorized, and Project Director covenants to furthering the Project in compliance with the Manual, this Agreement, and the Grantor’s Trust Agreement, as amended (this is the “**CultureTrust Trust Agreement**”). In the event of a successor Project Director, such successor Project Director shall execute a joinder reasonably satisfactory to the Grantor in order to evidence intent to be bound by the terms of the Manual, this Agreement, and the CultureTrust Trust Agreement.
  2. **Financial Accounting and Reporting; Grants as Income.** The Grantee will maintain books and financial records for the Project in accordance with generally accepted accounting principles, shall deposit Grants in one or more bank accounts of the Grantee as described by the Manual, shall retain records as long as required by law, and shall make records available to auditors as may be required by the Manual, the policies of the Grantor, or by law. Responsibility for the foregoing shall be allocated between the Grantor and the Grantee as described in the Manual. **THE** **Grantee EXPRESSLY acknowledges and agrees that the Grants may constitute taxable income to the Grantee; the Grantee shall be solely responsible for any tax reporting regarding RECEIPT OF the Grants on behalf of the Grantee.**
  3. **Grantee Obligations.** 
     1. **Grantee Role.** The Grantee agrees to use the Grants only to carry out the Project and advance the Project Purposes, all in accordance with applicable law and this Agreement and the Manual. The Grantee specifically represents and warrants to the Grantor that the Grants shall be used only for charitable purposes consistent with Section 501(c)(3) of the Code, subject to any and all applicable limitations as set forth in this Agreement and from time to time in the Manual. If the Grantee fails to comply with the requirements imposed by this Agreement or the Manual, the Grantee may be responsible for repaying any losses that result from the Grantee’s actions or inactions, including repaying third parties or reimbursing the Grantor directly. The Grantor may also withhold, withdraw, or demand the return of any or all of the Grants.
     2. **Reports to Grantor and Funding Sources.** The Grantee will provide to Grantor all information and prepare any and all budgets, certifications, and reports required in connection with the Project, including any and all annual budgets, quarterly check-ins, and annual re-certifications as described in the Manual.
     3. **Project of Grantee.** The Grantee agrees and acknowledges that the Grantee is solely responsible for the operation of the Project. The Grantee represents and warrants that the Grantee is compliant (and shall remain compliant throughout the Term and any Transition Period) with all applicable federal, state, and local laws and regulations and that the Grantee has obtained (and will maintain throughout the Term and any Transition Period) insurance that is reasonable and customary for the Grantee’s operation of the Project. The Grantee represents and warrants that the Grantee is solvent and generally paying its liabilities as they come due and is not, and does not have reason to expect to be, under investigation by any regulator.
  4. **Notices.** All notices or reports under this Agreement shall be addressed as follows:

|  |  |
| --- | --- |
| **If to Grantor:** | CultureTrust Greater Philadelphia  1315 Walnut Street, No. 320  Philadelphia, PA 19107  Attn: [**Name**]  Email: [**Insert**] |
| **If to Grantee:** | [**Name of Project**]  [**Address**]  Attn: [**Name**]  Email: [**Insert**] |

These addresses may be changed by written notice or email notice given by that Party to the other or by other form of notice agreed to by the Parties.

* 1. **Restrictions on Use of Restricted Fund.**
     1. **Tax-Exempt Purposes.** The Grantee shall ensure that the Grants are used solely for the Project Purposes and in support of the Project. The Grantee shall not use, or allow the Grants to be used, in any way that will jeopardize the tax-exempt, charitable, institution of purely public charity, or any other similar status of Grantor. The Grantee agrees to comply with any written request by Grantor to cease activities that, in Grantor’s reasonable judgment, do not comply with the Manual or that might jeopardize the tax-exempt or other regulated status of Grantor, and further agrees that the Grantor’s obligation to make the Grants may be suspended in the event that the Grantee fails to promptly comply with any such request.
     2. **Prohibited Activities.** Other than as Grantor may specifically agree in advance in writing, no portion of the amounts in the Restricted Fund or the Grants shall be used in any attempt to carry out lobbying or influence legislation. In no circumstances whatsoever shall any portion of the amounts in the Restricted Fund or the Grants be used to participate or intervene in any political campaign on behalf of or in opposition to any candidate for public office, induce or encourage violations of law or public policy, cause private inurement or improper private benefit to occur, support terrorist activities, terrorist organizations or individuals who engage in or support terrorist activities, or take any other action inconsistent with charitable qualification under Section 501(c)(3) of the Code.
     3. **Compliance with Grantor Policies.** TheGrantee will ensure that the amounts in the Restricted Fund and all Grants are used in compliance with Grantor’s policies and procedures, as may be amended from time to time, including the Manual.
  2. **Relationship of the Parties.** Nothing in this Agreement shall constitute the naming of either Party as an agent or legal representative of the other Party for any purpose whatsoever except as specifically and to the extent set forth herein. This Agreement shall not be deemed to create any relationship of agency, employment, partnership, or joint venture between the Parties hereto and the Grantee shall make no such representation to anyone.
  3. **Indemnification.** The Grantee hereby irrevocably and unconditionally agrees, to the fullest extent permitted by law, to defend, indemnify, and hold harmless the Grantor and each of its officers, directors, trustees, employees, and agents (each an “**Indemnitee**”) from and against any and all claims, liabilities, losses, and expenses (including reasonable attorneys’ fees) directly, indirectly, wholly, or partially arising from or in connection with (i) any breach of this Agreement by the Grantee, including any representation, warranty, or covenant of the Grantee being untrue, (ii) any act or omission of the Grantee, the Project Director, or their respective contractors, employees, or agents, in applying for, accepting, expending, or applying for the Raised Amounts or the Grants, or (iii) this Agreement or the Project. The Grantee shall have no obligation to defend, indemnify, and hold an Indemnitee harmless under this Section to the extent that such claims, liabilities, losses, or expenses are the result of the gross negligence or willful misconduct of that Indemnitee. The provisions of this Section shall survive the termination or expiration of the Agreement, as well as the completion of any Transition Phase.
  4. **Publicity.** Any and all use of the Grantor’s name in media communications and fundraising materials with respect to the Project shall be subject to the Grantor’s prior review and approval as described in the Manual. The Grantee shall provide the Grantor with reasonable advance notice with respect to any proposed use of the Grantor’s name in order to allow for such prior review. The Grantee hereby grants the Grantor, for the Term and any Transition Phase, a limited, revocable, royalty-free license to use the Grantee’s name and logo and brand and image to describe the Project and for the purposes of performing Grantor’s obligations under this Agreement.
  5. **Term.** The initial term of this Agreement is two (2) years after the date hereof (the “**Initial Term**”). The Initial Term shall be followed by immediately succeeding renewal terms of one (1) year (each a “**Renewal Term**” and together with the Initial Term, the “**Term**”), provided however, that either Party shall be entitled to prevent the next succeeding Renewal Term from beginning by providing thirty (30) days’ prior written notice to the other Party (a “**Non-Renewal Notice**”). During the Initial Term and any Renewal Term, this Agreement may be terminated either for a breach of this Agreement that remains uncured for thirty (30) days after written notice to the breaching Party or upon termination of the Restricted Fund as provided for a Project of the Grantor under the CultureTrust Trust Agreement. The Grants shall be made only during the Term or any Transition Phase.
  6. **Transition Phase; Disposition of Restricted Fund Upon Termination.** The Parties agree and acknowledge that a transition phase shall begin upon either the expiration or termination of this Agreement for any reason or the issuance of a Non-Renewal Notice, whichever occurs first (the “**Transition Phase**”). During the Transition Phase, (i) the Parties shall cooperate in good faith to transition the Restricted Fund, including by paying all outstanding amounts under this Agreement or the Manual and transferring any remaining amounts in the Restricted Fund, all as described in greater detail in the Manual, (ii) administrative, insurance, and other charges shall continue to be due and payable as provided in the Manual, and (iii) except as may be specifically provided in the Manual or otherwise advised by Grantor in writing, all other provisions of the Manual shall continue to apply to the Project and the Grantee. The Transition Phase shall not end unless and until all steps described in the Manual for transitioning the Project have been completed. The provisions of this Section 10 control over any language to the contrary in this Agreement and survive the termination or expiration of the Agreement.
  7. **Miscellaneous Provisions.**
     1. **Amendments.** Subject to updates to the Manual as described above and any annual confirmations that are signed only by the Grantee in accordance with the Manual, this Agreement may be amended or modified only by a writing signed by both Parties.
     2. **Assignment**. The Grantee shall not assign any rights or delegate any duties under this Agreement without the prior written consent of the Grantor.
     3. **Dispute Resolution.** In the event of a dispute under this Agreement, the Grantor and the Grantee shall make a good faith effort to resolve such dispute cooperatively before seeking to resolve any dispute by arbitration or otherwise proceeding with any remedy available at law or in equity.
     4. **Consent to Jurisdiction.** For all purposes related to this Agreement, the Parties hereby consent to personal jurisdiction in the state courts in and for the Commonwealth of Pennsylvania and the City of Philadelphia.
     5. **Entire Agreement.** This Agreement constitutes the entire agreement of the Parties with respect to the subject matter hereof; it supersedes any prior agreement and understandings between the Parties as to such matters, oral or written, all of which are hereby cancelled.
     6. **Governing Law.** This Agreement shall be governed by and interpreted in accordance with the laws of the Commonwealth of Pennsylvania.
     7. **Severability.** 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.
     8. **Counterparts.** This Agreement may be executed in counterparts, each of which shall be deemed an original and all of which together shall constitute one and the same instrument.
     9. **Attorneys’ Fees.** 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.
     10. **Third-Party Beneficiaries**. The Parties agree that there are no third-party beneficiaries with respect to this Agreement. By way of example, and not by way of limitation, the Project Director is not a third-party beneficiary of this Agreement.
     11. **Non-Waiver.** Failure by a Party to insist upon the strict performance of any of the terms, conditions and provisions of this Agreement do not waive or relinquish future compliance, and such terms, conditions, and provisions shall remain in full force and effect. A waiver of any term or condition of this Agreement by a Party shall be effective only if in writing and signed by the Party against whom the waiver is being asserted.
     12. **Construction**. The recitals to this Agreement are incorporated as if fully set forth herein. Unless the context otherwise requires, whenever used in this Agreement, the singular shall include the plural, the plural shall include the singular and the masculine gender shall include the neuter and feminine gender, and vice versa. In this Agreement, references to “includes,” “including,” “including but not limited to,” “including without limitation” and words or phrases of similar import shall be deemed to have the same meaning and the words “include(s)” and “including” shall not be deemed to be terms of limitation but rather be deemed to be followed by the words “without limitation.”

*Remainder of page intentionally left blank; signature page follows.*

IN WITNESS WHEREOF and intending to be legally bound, the Parties have caused their duly authorized representatives to execute this Agreement effective as of the day and year set forth above.

**Grantor:** CultureTrust Greater Philadelphia

By:

Its:

Date:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**Grantee:**

Name:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Title:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Date:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

The undersigned hereby accepts and acknowledges the responsibilities of Project Manager as described in the Manual, the CultureTrust Trust Agreement, and this Agreement.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Printed Name:

**EXHIBIT A**

Grantor’s Fiscal Sponsorship Manual

as of the date of this Agreement

Attached.

Please note that this Fiscal Sponsorship Manual for Model C Fiscal Sponsorships is subject to change and may be amended by CultureTrust.

CultureTrust will make the current version available on our website at: https://www.cultureworksphila.org/for-members