

CONTRACT FOR PURCHASE OF SCULPTURE "THE PURSUIT OF HAPPINESS"

THIS CONTRACT FOR PURCHASE ("Contract") is made as of the ____ day of _____, 2015 by and between Charlie Brouwer, an individual with an address of 268 Akers Rd. NW, Willis, VA ("ARTIST"), and Liberty Arts, Inc., a non-profit corporation organized and existing under the laws of North Carolina ("PURCHASER").

WHEREAS, ARTIST is the creator of, and sole and exclusive owner of, all rights, title and interest in and to a sculpture made primarily of pieces of Locust wood screwed together with deck screws made in the shape of a walking man and titled "The Pursuit of Happiness" (hereinafter referred to as the "Work") and shown in the photograph attached hereto as Exhibit A;

WHEREAS, PURCHASER wishes to acquire the Work for the purpose of donating the Work to the City of Durham ("City") pursuant to a separate Artwork Acceptance Agreement ("Artwork Acceptance Agreement").

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, and with the intention of being legally bound hereby:

1. Sale of Work. ARTIST hereby agrees to sell the Work to the PURCHASER. Title, ownership and specified rights shall pass to the PURCHASER at such time as full payment is received by the ARTIST pursuant to Paragraph 2 below. The Work is generally described as follows:

Title: The Pursuit of Happiness
Medium: Locust Wood
Size: 98" x 44" x 63"
Weight: 600 lbs.
Year of Creation: 2011

The Work is currently on display in an outdoor location in the City of Durham, in the Durham Convention Center Plaza at 310 W. Morgan Street.

2. Compensation. ARTIST shall be paid \$5,600.00, plus any applicable sales taxes ("Fee"). Payment of the Fee shall be made upon execution of this Contract.

3. Original Work. ARTIST hereby represents and warrants that the Work is original to the ARTIST and that the Work is unique, and will not infringe any copyright, trademark, trade dress rights, patent, right of privacy or right of publicity, contain any libelous or scandalous material, or infringe or violate any other right of any third party, including, but not limited to, other intellectual property or claims by third parties that the Work is proprietary to them. ARTIST further represents and warrants that the ARTIST is the sole and exclusive owner of all right, title, and interest in and to the Work, and no

other person or entity has any rights (as an owner, licensee, or otherwise) in or to the Work, that the ARTIST has obtained assignments from and waivers of moral rights from any other person or entity who may have been involved in the creation of the Work or otherwise may have a claim of ownership or rights in or to the Work, and that the ARTIST will transfer all right, title, and certain copyright interest in and to the Work, to the PURCHASER, as provided in this Contract. ARTIST hereby further represents and warrants that he has clear, unencumbered title to the Work including the material and medium constituting the Work. The ARTIST shall indemnify the PURCHASER and City against any loss, cost, expense, including attorney's fees, and liability arising out of any such claim, whether or not such claim is successful. If so requested by the PURCHASER or the City, the ARTIST shall defend any such claim in the name of the PURCHASER or City, but at the ARTIST's expense. The terms and provisions of this Section 3 shall survive the expiration or termination of this Contract.

4. Quality and Condition of Work. The ARTIST represents and warrants that the design, execution and fabrication of the Work was performed in a workmanlike manner and that the Work, as designed, fabricated and currently installed is free of defects in material and workmanship, including any defects consisting of qualities which cause or accelerate deterioration of the Work other than the nature of the material of which it has been fabricated. The ARTIST warrants that the Work is suitable in all respects for display, the purpose for which it was created hereunder and the ARTIST is not aware of any serious flaws or conservation problems in any works previously created by the ARTIST which are composed of like or similar materials, or in which the ARTIST used fabrication methods similar to the materials or methods utilized or to be utilized in the fabrication of the Work, provided the Work is maintained on a periodic basis in accordance with Section 9.

5. Transfer of Rights in the Work. Rights Reserved by Artist.

(a) ARTIST hereby irrevocably grants, transfers, conveys, assigns and sets over to the PURCHASER, and its successors and assigns the entire right, title, and interest in perpetuity in and to the Work in the United States and worldwide including without limitation all contents thereof, all adaptations, derivations and versions thereof, and the unencumbered right to exercise such rights in all media and by any manner or means, whether now or hereafter devised. ARTIST retains all rights under United States Code Title 17 (the Copyright Act of 1976 and subsequent amendments) in the Work, except as such rights are limited by this Contract. ARTIST's retained rights include the right to photograph images of the Work and making reproductions of the Work.

(b) ARTIST hereby grants to PURCHASER a worldwide, perpetual, irrevocable, royalty-free, transferable, sublicensable, exclusive license to use, display, exhibit, prepare derivative works of, distribute copies of, photograph, video, and otherwise reproduce images of the Work for non-commercial purposes, and the right to enforce the foregoing. Notwithstanding the foregoing, the license does not restrict the ARTIST from producing, marketing, selling or otherwise transferring works substantially

similar to the Work for installation and display elsewhere and granting rights similar to those granted herein to such other works.

(c) ARTIST unconditionally waives all rights, claims, and causes of action relating to any moral rights and/or non-assignable rights in the Work, including but not limited to the Visual Artists Rights Act of 1990, as amended, together with all related past, present, and future causes of action related to the Work, including, but not limited to, any and all rights of approval or consent with respect to any modification, alteration, disassembly, removal, distortion or mutilation of the Work, except as expressly provided in this Contract.

(d) ARTIST further agrees to execute and deliver at the request of the PURCHASER any and all other papers, instruments and assignments and to perform any other reasonable acts the PURCHASER may require in order to vest all of ARTIST's rights, title and interest in and to the Work in the PURCHASER (i) as are deemed necessary by PURCHASER or by the governmental agencies having jurisdiction over said Work to effect the transfer to PURCHASER, its successors and assigns of all of ARTIST's right, title, and interest in and to the Work, (ii) for maintaining and perfecting the PURCHASER's rights to the Work, and (iii) as may be or become necessary for obtaining, maintaining, or protecting said Work.

6. Non-destruction. PURCHASER and any future owner, successor, donee, assignee or transferee of PURCHASER shall not destroy the Work or permit the Work to be destroyed without first offering to return ownership of the Work to the ARTIST or his or her successors in interest by first attempting to contact ARTIST in accordance with Section 17, Notice below.

7. Integrity. PURCHASER and any future owner, successor, donee, assignee or transferee of PURCHASER shall not distort, mutilate, or otherwise alter the Work, except to the extent necessary for safety reasons. In the event such distortion, mutilation, or other alteration occurs, whether by action of the PURCHASER and any future owner, successor, donee, assignee or transferee of PURCHASER or otherwise, the ARTIST shall, in addition to any other rights and remedies, have the right to have his or her name removed from the Work and no longer have it attributed to him as its creator.

8. Attribution. The ARTIST shall, at all times, have the right to have his name appear with the Work and to be acknowledged as its creator. PURCHASER and City agree, where feasible, to provide direct attribution to the ARTIST for creation of the Work on media in which the Work is depicted by itself or in an otherwise solitary fashion and not in association with other works, structures or images.

9. Maintenance. ARTIST represents that the Work requires little or no ongoing maintenance; however, PURCHASER and any future owner, successor, donee, assignee or transferee of PURCHASER shall agree to make reasonable efforts

to perform regular inspections of the Work and maintain the Work, if necessary, in accordance with the following:

Maintenance

The Pursuit of Happiness” is made of pieces of locust wood screwed together with deck screws and stained with an exterior preservative stain. Locust wood is an extremely durable, weather resistant wood. To maintain the sculptures color it may need to be cleaned with deck wash or bleach (50% mix with water) and re-stained if necessary. Use bleach and spray it on and let it set for a few minutes and wash it off. Basically – maintaining the sculpture is like taking care of a wood deck, except that Locust wood is more durable than normal deck wood. Keeping the base of the sculpture from touching the ground is recommended as it is easier to maintain and last longer.

If recoating is required, use clear, oil based stain with white pigment (preferably Sherwin Williams clear, oil based “Decksapes” with 6 oz. white pigment added).

10. Restoration. In the event of damage to the Work requiring restoration or repair, the PURCHASER and any future owner, successor, donee, assignee or transferee of PURCHASER shall, if practicable, offer the ARTIST the first opportunity to restore or repair the Work and, in any case, shall consult with the ARTIST with respect to the restoration or repairs by attempting to contact ARTIST in accordance with Section 17, Notice below.

11. Taxes. Except for any applicable sales tax, PURCHASER shall not have any responsibility for paying any applicable federal, state and local income taxes, gross receipt taxes, social security taxes, all other withholding taxes, unemployment and disability benefits, workers’ compensation obligations, or licenses and fees of whatever nature in connection with the services provided by ARTIST pursuant to this Contract. ARTIST hereby specifically agrees that he will be liable to pay his own taxes and for complying with federal, state and local regulations on the subject of taxes, social security payments and employment laws. PURCHASER will not withhold any taxes from ARTIST’s compensation payable hereunder and will not file any tax reports or returns on ARTIST’s behalf relating to payments made by PURCHASER to ARTIST, and no deductions shall be made by PURCHASER from ARTIST’s compensation for social security, federal and/or state withholding taxes, or any other income or employment taxes.

12. Risk of Loss and Insurance. The risk of loss or damage to the Work and the provision of any insurance to cover such loss or damage shall be the responsibility of the PURCHASER or the Assignee from the signing of this contract.

13. Entire Contract. This Contract contains the entire understanding between the parties and supersedes and cancels any prior oral and written understanding and/or Contracts between them respecting the subject matter of this Contract. This Contract may be amended or modified only in writing signed by both parties.

14. Severability. If any provision, term, condition, or clause of this Contract or the application thereof shall be invalid or unenforceable to any extent, the remainder of this Contract shall not be affected thereby and shall be enforced to the greatest extent permitted by law.

15. Governing Law. This Contract is made and entered into in the State of North Carolina and is to be construed in accordance with and take effect under the laws of the State of North Carolina without regard to principles of conflicts of laws.

16. Assignment. ARTIST acknowledges that PURCHASER intends to donate and transfer ownership of the Work and license, on an exclusive basis, certain rights under copyright in the Work to the City. ARTIST acknowledges that PURCHASER and any future owner, successor, donee, assignee or transferee of PURCHASER, without ARTIST's consent, may transfer ownership and title of the Work to other donee, assignee or transferee. Said donee, assignee or transferee shall be a third-party beneficiary of this Contract.

17. Notice. Any notice, or other written communication to be given pursuant to this Contract for whatever reason shall be deemed duly given and received (a) if delivered personally, or the date of delivery, (b) by email using the email addresses provided below, or (c) by certified mail, postage pre-paid, return receipt requested, three (3) days after the date of mailing, addressed:

In the case of PURCHASER:

Liberty Arts, Inc.
Attn: Jackie MacLeod, President
923 Franklin St.
Durham, NC 27701
E-mail: hello@jackiemacleod.com
Phone: 919-260-2931

In the case of ARTIST:

Charlie Brouwer
268 Akers Rd. NW
Willis, VA
E-mail: cbouwer@swva.net
Phone: 540-250-2966

18. Miscellaneous. All rights of PURCHASER expressed in this Contract are in addition to any rights available under the common law or other legal principles. Section or paragraph titles or captions contained in this Contract are inserted only as a matter of convenience and for reference and in no way define, limit, extend or describe the scope of this Contract or the intent of any provision hereof. All pronouns and any variation thereof shall be deemed to refer to the masculine, feminine, neuter, singular or plural as the identity of person or persons, firm or firms, corporation or corporations, and as context may require.

[Signatures appear on following page(s)]

IN WITNESS WHEREOF, ARTIST and PURCHASER executed this Assignment on the date(s) set forth below.

ARTIST:

_____ (SEAL)
CHARLIE BROUWER

Date: _____, 2015

State of _____ INDIVIDUAL ACKNOWLEDGMENT

County of _____

I, a notary public in and for the aforesaid county and state, certify that CHARLIE BROUWER, personally appeared before me this day and acknowledged the execution, under seal, of the foregoing contract or agreement. This the _____ day of _____, 20____.

My commission expires:

Notary Public

PURCHASER:

Liberty Arts, Inc.

By _____(SEAL)

Title: _____

State of NORTH CAROLINA

ACKNOWLEDGMENT BY
LIBERTY ARTS, INC.

County of _____

I, a notary public in and for the aforesaid county and state, certify that
_____ personally
appeared before me this day and stated that he or she is

(strike through the inapplicable:) chairperson/ president/ chief executive officer/ vice-
president/ assistant vice-president/ treasurer/ chief financial officer of LIBERTY ARTS,
INC., a corporation, and that by authority duly given and as the act of the corporation,
he or she signed, under seal, the foregoing contract or agreement. This the _____ day
of _____, 20_____.

My commission expires: _____

_____ Notary Public

EXHIBIT A

“The Pursuit of Happiness”

