

DETAILS AND SPECIFICATIONS

Photography and Reproduction: The Borrower recognizes that the Lender owns copyright to the Works and the Borrower has no right to reproduce the Works without written consent from the Lender. Lender nevertheless agrees that the Borrower may photograph the Works and/or cause the Works to be photographed for non-commercial purposes, including archival, educational, promotional and/or publicity purposes of the College, after informing Lender thereof in writing. The Lender will be recognized as the owner of the Works on all such materials. The Borrower agrees to provide the Lender with details as to the context of each intended use, any deadlines pertaining thereto, relevant credit lines to be used, and proof material if available. Any other reproduction of the Works, by any person acting for and/or on behalf of the Borrower, for any other purpose, must be approved in writing in advance by Lender. The Borrower agrees not to reproduce images of the Works for postcards, slides, posters, or other commercial purposes without the written permission of Lender. The Borrower agrees to pay all costs of any such reproduction of the Works produced for or on behalf of the Borrower. The Borrower agrees to provide the Lender with five (5) copies of any publication reproducing the Works. While the Borrower will make reasonable efforts through signage to discourage unauthorized reproduction of the Works, Lender recognizes that the Works are displayed in a public space and that casual (digital and other) reproduction of the Works will for all intents and purposes be impossible to prevent.

Insurance; Indemnity: The Borrower agrees to provide at its cost all risk onsite fine arts insurance coverage for the safekeeping and preservation of the Works while in the care, custody and control of the Borrower and/or the College, such Works to be insured for the value stated on **the Artwork Intake Form and/or its attached Entry Forms** (the “Insurance Value”), being the Lender’s representation as to the “fair market value” of the Works. The Borrower agrees that the insurance coverage it has obtained for the Insurance Value for the Works as indicated on page 1 is the stated value established by the Lender for the Works, and all claims by the Lender and/or the Borrower, whether for full or partial damage to the Works, while in the care, custody and control of the Borrower and/or the College, will be based on this value. The Borrower agrees to provide the Lender with a Certificate of Insurance and/or a copy of the Certificate of Indemnity issued by the Federal Council on the Arts and the Humanities or a comparable policy evidencing such insurance coverage, including full insurance coverage for acts of terrorism upon the Lender’s request therefor. The Lender agrees to use reasonable efforts to cooperate with the Borrower, as may be necessary and/or required, to enable the Borrower to submit and pursue a claim based upon insurance coverage. In the case of partial loss or damage to any of the Works, while in the care, custody and control of the Borrower and/or the College, a conservator mutually acceptable to the Lender and the Borrower may be consulted to recommend and/or perform necessary repairs to the Works. The Lender and the Borrower shall agree upon the reasonable cost of repair to the damaged Works and the amount of any reduction in the fair market value of the damaged Works after such repair, or in the absence of agreement, these amounts will be determined by an appraiser mutually acceptable to both parties. The Borrower shall pay all reasonable costs incurred in connection with any conservation and with the appraiser’s valuation obtained in the case of said partial loss or damage to any of the Works, and the Borrower shall be responsible for handling and processing any insurance claim.

If the Lender maintains the Lender’s own policy(ies) of insurance, the Lender’s insurance coverage shall be primary; and shall include a waiver of subrogation in favor of the College. In no event will the College be liable to the Lender for any loss of and/or damage to the Works in excess of the amount of any insurance recovery from the College’s Fine Arts Policy, for any loss of and/or damage to the Works due to causes excluded from coverage under the Fine Arts Policy, and/or for any incidental or consequential damages.

It is agreed and understood that the Borrower agrees to indemnify, defend and hold the Lender free and harmless from any acts of vandalism or other acts that result in a catastrophic injury to any of the Works, and any other type of damage and injury that may result from such damage to the Works by another person or persons while in the care, custody and control of the Borrower and/or the College, and from any and all demands, claims, suits, judgments, damages, losses or other liability, including all attorney or other professional fees and all other costs, fees and expenses, suffered or incurred by, or asserted or alleged against the Lender arising by reason of, or in connection with, the Borrower’s display of the Works being in the care, custody and control of the Borrower and/or the College, and related to the Borrower’s display of the Works on the College’s Pottstown Campus.

Shipping: Lender will pack and ship works to Borrower's location on or about November 28, 2022. Lender or lender's representative agrees to pick up the artwork on February 2, 2023 (unless the period of the Loan is extended by agreement, in writing, of both parties).

Care, Preservation and Exhibition: The Borrower will give to the Works the same care it gives comparable property of its own, including taking appropriate precautions to protect the Work from fire, theft, and mishandling while on display in Borrower's custody. The Borrower will conduct a condition report (the "Condition Report") for each of the Works after it arrives at the exhibition location, prepared by the Galleries Director of Montgomery County Community College. The Condition Report shall be made available for review by either party at any reasonable time, after reasonable request therefor. The Lender will be notified immediately of any change or damage to the Works of which the Borrower may from time to time acquire knowledge, regardless of whom may be responsible, and any such changes or damage will be added as an update to the Condition Report. Upon de-installation of the Works at the end of the period of the Loan, the Galleries Director shall update and revise the Condition Report indicating any change in the condition of the Works. Upon completion of the updating (if any) of the Condition Report, the Galleries Director shall oversee packing of the Works for transit. The Borrower will not perform any conservation on the Works without the specific written consent of the Lender. Events involving food and drink (including an opening reception) may take place in the Gallery during the course of the Loan. Reasonable efforts will be made to confine food and drink to areas away from the Works, and to keep the Gallery clean. Lender will be notified of such events in advance by the Borrower.

Commission: In the event that any of the Works are purchased or contracted for purchase from the Lender by a third party during the period of the Loan, the Lender agrees to donate 20% of profits, from the sale of any of the artworks, to the "Friends of the Galleries," a fund within the Montgomery County Community College Foundation, a non-profit 501c(3) organization.

Return of Loan: Unless otherwise agreed in writing, the period of the Loan terminates on the date specified in Page 1 of this Agreement. Lender agrees to pick up their Works on February 2, 2023 unless other arrangements are agreed to in writing by both parties. The Work will be returned only to the Lender of record or to a location mutually agreed upon in writing by the Borrower and the Lender of record.

Warranty of the Lender and the Borrower: The Lender represents and warrants to the College that the Lender is the legal owner of the Works, and has the legal right to convey the rights to the College contemplated by this Agreement. The Borrower warrants that it has the authority to enter into this Agreement and that the person who has executed this Agreement below on behalf of the Borrower has the authority to bind the Borrower.

Miscellaneous: This Agreement represents the entire understanding of all the parties hereto with respect to the subject matter hereof, supersedes any and all other and prior agreements between the parties with regard thereto and declares all such prior agreements between the parties null and void. The terms of this Agreement may not be modified or amended, except in writing signed by both parties. This Agreement and all matters relating to it shall be governed by the laws of the Commonwealth of Pennsylvania. This Agreement shall inure to the benefit of, and shall be binding upon, the parties hereto, and their respective successors, heirs, executors and administrators. Any dispute arising hereunder shall be resolved in the Court of Common Pleas, Montgomery County or in the United States District Court for the Third District, and the parties hereto consent to the personal jurisdiction of those Courts. Any descriptive headings in this Agreement are for convenience only and shall not control or affect the meaning or construction of any provision of this Agreement. This Agreement may be executed in any number of counterparts, and each such counterpart shall be deemed to be an original instrument, but all such counterparts together shall constitute but one document. The parties acknowledge that the normal rule of construction to the effect that any ambiguities are to be resolved against the drafting party shall not be employed in the interpretation of this Agreement.

Notices: All notices, requests, demands, claims, and other communications hereunder shall be in writing and addressed to the intended recipient at the address set forth above using personal delivery, expedited courier, messenger service, facsimile, e-mail or certified mail return with receipt requested, but no such notice, request, demand, claim or other communication shall be deemed to have been duly given or delivered unless (i) if given by personal delivery or messenger service, upon actual delivery, (ii) if given by expedited courier (e.g., FedEx or UPS),

upon actual or attempted delivery, (iii) if by facsimile or e-mail, upon actual delivery following confirmation of delivery, and (iv) if by certified mail, upon actual or attempted delivery. Any party may change the address to which notices, requests, demands, claims, and other communications hereunder are to be delivered by giving the other party notice in the manner herein set forth.