

Bill No. 204  
2015

By-law No. A.-7259-168

A By-law to approve the Purchase of Service Agreement between London Arts Council and the Corporation of the City of London; and to authorize the Mayor and City Clerk to execute the agreement.

WHEREAS subsection 5(3) of the *Municipal Act, 2001* provides that a municipal power shall be exercised by by-law;

NOW THEREFORE the Municipal Council of The Corporation of the City of London enacts as follows:

1. The Purchase of Service Agreement to be entered into between London Arts Council and the Corporation of the City of London regarding the operation and administration of the Community Arts Investment Program (CAIP) Category 2 and other arts and cultural services as set out in the agreement attached as Schedule "A" to this by-law, is approved.
2. The Mayor and the City Clerk are authorized to execute the agreement approved under section 1 above.
3. This by-law shall come into force and effect on the day it is passed.

PASSED in Open Council May 12, 2015.

Matt Brown  
Mayor

Catharine Saunders  
City Clerk

First Reading – May 12, 2015  
Second Reading – May 12, 2015  
Third Reading – May 12, 2015

## Schedule "A"

**THIS PURCHASE OF SERVICE AGREEMENT** made in triplicate this \_\_\_\_\_ day of \_\_\_\_\_, 2015.

BETWEEN:

**LONDON ARTS COUNCIL**  
(hereinafter referred to as LAC)  
OF THE FIRST PART

AND

**THE CORPORATION OF THE CITY OF LONDON**  
(hereinafter referred to as the City)  
OF THE SECOND PART

**WHEREAS** the City may provide any service or thing that the municipality considers necessary or desirable for the public pursuant to subsection 10(1) of the *Municipal Act, 2001*, S.O. 2001, c.25, as amended;

**AND WHEREAS** the City may pass by-laws respecting matters of economic, social and environmental well-being of the municipality and services and things that the municipality is authorized to provide under subsection 10(1) pursuant to subsection 10(2) of the *Municipal Act, 2001*, as amended;

**AND WHEREAS** the City has the capacity, rights, powers and privileges of a natural person for the purposes of exercising its authority pursuant to the provisions of section 9 of the *Municipal Act, 2001*, as amended;

**AND WHEREAS** LAC is an incorporated not-for-profit charitable organization with a Board of Directors residing in London. LAC is a not-for-profit arts umbrella organization. The LAC is dedicated to enhancing the quality of life and to create vitality in London. The LAC works toward this goal through nurturing the awareness of, involvement in, and commitment to excellence at all levels of art in London. Its focus is on those programs and services that provide information, education and training, consultation and collaboration, representation and networking opportunities for the arts community, Londoners and visitors to the City of London;

**AND WHEREAS** the City wishes to retain the services of LAC to provide services including the administration of City funding for the Community Arts Investment Program (CAIP) Category 2 and specified arts services as set out in this Agreement;

**NOW THEREFORE THIS AGREEMENT WITNESSETH** that in consideration of the mutual covenants herein contained, the parties hereto covenant and agree with the other as follows:

### **PART 1 – DEFINITIONS**

1.1 In this Agreement the following terms shall have the following meanings:

- (a) "City Manager" means the City Manager for the City or a person delegated by him or her for the purposes of this Agreement.
- (b) "Services" means the services as set out in part 4 of this Agreement.
- (c) "City Treasurer" means the City's Treasurer appointed under the *Municipal Act, 2001* or any person delegated by him or her for the purposes of this Agreement

### **PART 2 – REPRESENTATIONS, WARRANTIES AND COVENANTS**

2.1 General. LAC represents, warrants and covenants that:

- (a) It is, and shall continue to be for the term of this Agreement, a validly existing legal entity with full power to fulfill its obligations under this Agreement;
- (b) It has, and shall continue to have for the term of this Agreement, the experience and expertise necessary to accept and apply the Fee/Funds toward its costs for the Services; and

(c) It is and shall continue to be for the term of this Agreement, in compliance with all federal and provincial laws and regulations, all municipal by-laws, and any other orders, rules and by-laws related to any aspect of the Fee/Funds.

2.2 Execution of Agreement. LAC represents and warrants that:

- (a) It has the full power and authority to enter into this Agreement; and
- (b) It has taken all necessary actions to authorize the execution of this Agreement.

2.3 Governance. LAC represents, warrants and covenants that it has and shall maintain, in writing for the period during which this Agreement is in effect:

- (a) A code of conduct and ethical responsibilities for all persons at all levels of LAC's organization;
- (b) Procedures to ensure the ongoing effective functioning of LAC;
- (c) Decision-making mechanisms for LAC;
- (d) Procedures to enable LAC to manage the Fee/Funds prudently and effectively;
- (e) Procedures to enable the preparation and delivery of all reports required pursuant to this Agreement; and
- (f) Procedures to enable LAC to deal with such other matters as LAC considers necessary to ensure that LAC carries out its obligations under this Agreement.

2.4 Supporting Documentation. Upon request, LAC shall provide the City with proof of the matters referred to in this section.

### **PART 3 – TERM**

3.1 This Agreement shall commence on May 1, 2015 and end on April 30, 2019 unless terminated earlier pursuant to the termination provisions in this Agreement.

### **PART 4 - OBLIGATIONS OF LAC**

4.1 LAC agrees to provide the following services (the "Services"):

- (a) operate and administer the Community Arts Investment Program (CAIP) Category 2 in accordance with the policies and procedures as approved by City Council from time to time for such program ("CAIP Policy");
- (b) Operate, including maintaining and managing arts content on, the London Culture Website [www.londonculture.ca](http://www.londonculture.ca) for the purpose of promoting arts programs delivered and administered by LAC and the City;
- (c) Assist the City with the acquisition and de-accession of public art as outlined in the City's Public Art Policy as follows:
  - (i) participate in the identification and selection of sites on an ongoing basis and provide advice to the City Manager related to the City's Public Art Program;
  - (ii) administer the artist selection and design process for commissions, as per agreed upon time frames, including but not limited to, developing and advertising expression of interest and/or request for proposal documents;
  - (iii) selection and facilitation of a juried process for recommending commissions, donations and purchases of public art; and
  - (iv) selection and facilitation of a juried process for recommending plans for de-accession of public art;
- (d) operate the annual arts and culture showcase weekend program entitled "London Culture Days";

- (e) operate and administer the LAC's London Artists in Residence Program (LAIR);
- (f) consult and meet with the City Manager on an ongoing basis concerning LAC's cultural initiatives;
- (g) participate with the City on and implement with the City London's Cultural Prosperity Plan;
- (h) report with the City Manager to City Council on the status of the implementation of London's Cultural Prosperity Plan; and
- (i) provide advice and recommendations to and consult with the City on cultural matters as may be requested by the City Manager including without limitation to matters related to arts policy and guidelines, evaluation and arts education and engagement.

4.2 The City and LAC may agree in writing from time to time to add, eliminate, transfer or vary the Services supplied by the LAC to the City under this agreement recognizing that the Fee paid by the City to the LAC may be adjusted to reflect such changes.

#### 4.3 Marketing, Promotion and Communication Requirements.

(a) LAC shall acknowledge, in a form and manner as directed by the City Manager, the support of the City in all marketing and promotional materials (including but not limited to specific programs funded by the City on [www.londonculture.ca](http://www.londonculture.ca), flyers, postcards, posters, programs, banners) related to the Services provided by it under this Agreement.

(b) LAC shall require all recipients of funding as a condition of granting funds under the Community Arts Investment Program (CAIP) Category 2 to use the City's logo, in a manner as directed by the City Manager, in their marketing and promotional materials related to the project, program or activity for which the CAIP Category 2 funding was provided.

### **PART 5 - PAYMENT OF FEES FOR SERVICES AND FUNDING FOR CAIP CATEGORY 2 GRANTS**

5.1 For the Services, the City agrees to pay LAC a fee ("the Fee") of One hundred and fifty-seven thousand, five hundred dollars (\$157,500) for each year of this Agreement subject to the following:

(a) beginning in 2016 and thereafter annually during the term of this Agreement a portion of the Fee in the amount of \$86,500.00 shall be adjusted by the percentage change over 12 months in the February All-Items Consumer Price Index for Canada, (Table 326-0020 all items, 2002 = 100);

(b) in each year during the term of this Agreement, the Fee shall be paid in two installments with 95% paid in 2015 within 15 days of execution of this Agreement and thereafter in each year on March 30<sup>th</sup> and 5% paid in each year on receipt of the Annual Report as required in accordance with section 6.6;

(c) LAC shall use the Fee only for the purpose of funding the Services;

- (d) the City may, in its sole discretion and in addition to any other remedy available to it, withhold any payment due to LAC under this Agreement and, in particular,
- (i) if LAC has failed to submit when due any report required by the City under this Agreement;
  - (ii) pending the completion of an audit of LAC's books and records, should the City decide to undertake such an audit;
  - (iii) if LAC is not in compliance with any applicable laws, regulations, by-laws, Council Policies, and if applicable the Vulnerable Populations requirements;

- (iv) in the event that an audit of LAC's books and records indicates mismanagement or misuse of funds, in the sole opinion of the City Treasurer; and
- (v) if LAC has not provided the insurance certificate as required under this Agreement;
- (e) the Fees shall be adjusted to reflect the addition, elimination, transfer or variance to the Services agreed upon in writing from time to time by the City and LAC.

5.2 LAC acknowledges and agrees that the Fee has been calculated generally using the following formula:

- (a) Twenty-five thousand dollars (\$25,000) for an annual arts and culture showcase weekend, London Culture Days;
- (b) Sixteen thousand dollars (\$16,000) for assisting the City with the acquisition and de-accession of public art as outlined in the City's Public Art Policy;
- (c) Thirty thousand dollars (\$30,000) for the operation and administration of the LAC's London Artists in Residence Program (LAIR);
- (d) Eighty-six thousand, five hundred dollars (\$86,500) towards all other Services to be provided by LAC under this Agreement.

5.3 Operation and administration of the Community Arts Investment Program (CAIP) Category 2.

- (a) LAC agrees that it shall;
  - (i) operate and administer the Community Arts Investment Program (CAIP) Category 2 in accordance with the CAIP Policy;
  - (ii) establish and maintain a separate bank account to be used solely for the purpose of holding funds provided to it by the City for grants to be made under the Community Arts Investment Program (CAIP) Category 2;
  - (iii) deposit and hold all funds provided to it by the City for grants to be made under the Community Arts Investment Program (CAIP) Category 2 into such account;
  - (iv) withdraw funds from such account only for the purpose of funding a program or project for which an application has been received and approved by the LAC under the Community Arts Investment Program (CAIP) Category 2; and
  - (v) establish within its corporation a volunteer (CAIP) Jury to review applications for the purpose of allocation of the CAIP Category 2 funding. The decisions of the (CAIP) Jury shall be final and not subject to being changed by LAC Board Members, LAC staff, City Council or Civic Administration.
- (b) LAC agrees that it shall consult with the City Manager about changes proposed by it to the CAIP Program.
- (c) LAC acknowledges and agrees:
  - (i) that the funds provided to it by the City for grants to be made under the Community Arts Investment Program (CAIP) Category 2 are subject to the approval by City Council, in its sole discretion, for the fiscal year in which the payment is to be made.
  - (ii) that if the City Council terminates or reduces the amount of funding for grants allocated to the program the City is not obligated to make any such payment to the LAC and LAC shall not hold the City liable for any termination or reduction of the funding.

(d) The parties agree that if the funding for grants allocated to the program is terminated or reduced, they shall attempt in good faith to negotiate an amendment to the Fee and if an agreement cannot be reached that is satisfactory to both parties, either party may terminate this Agreement in accordance with the termination provisions of this Agreement.

5.4 LAC shall use the Fee and shall distribute the funds provided to it for allocation under the CAIP without any actual potential or perceived conflict of interest. For the purposes of this section, a conflict of interest includes any circumstances where

(a) LAC; or

(b) any person who has the capacity to influence LAC's decisions,

has outside commitments, relationships or financial interests that could, or could be seen to, interfere with the LAC's objective, unbiased and impartial judgement relating to the use of the Fee/Funds provided to it for allocation under the CAIP.

## **PART 6 – RECORDS & REPORTING**

6.1 Records. LAC shall keep and maintain during the term of this Agreement and for a period of seven (7) years following expiration or termination of this Agreement:

(a) all financial records in accordance with generally accepted accounting principles related to all of its operations and the Services; and

(b) all non-financial documents and records relating to the Services.

6.2 In the event that the LAC ceases operation, LAC shall not dispose of any records related to the Services without the prior written consent of the City Manager and shall immediately return all records to the City upon request.

6.3 The City Treasurer or an auditor identified by the City Treasurer may, at the City's expense, upon 2 business days' notice to LAC and during normal business hours, enter upon the LAC's premises to review LAC's records under section 6.1, and for these purposes, the City Treasurer or an auditor identified by the City Treasurer may take one or more of the following actions:

(a) inspect and copy the records and documents referred to in section 6.1;

(b) remove any copies made pursuant to this section from LAC's premises; and

(c) conduct any type of audit or investigation of the LAC in respect to any of its obligations under this Agreement.

6.4 LAC agrees that during any inspection, audit or investigation conducted under section 6.3 it shall cooperate fully with the City Treasurer or an auditor identified by the City Treasurer and shall make available all facilities, physical and otherwise, for such inspection, audit or investigation and shall furnish the City Treasurer and its auditor with all such information as it or they, may from time to time require.

6.5 Financial Reporting. LAC shall file with the City, no later than June 30<sup>th</sup> in each year, financial statements and an auditor's report for the immediately preceding year, fairly representing the financial position of the LAC and the results of its operations for the period under review in accordance with generally accepted accounting principles applied on a basis consistent with that of the preceding period.

6.6 Annual Report. For each year of the Term of this Agreement, LAC shall, on or before December 30<sup>th</sup>, provide to the City Manager an annual report approved by the LAC Board of Directors, in a form satisfactory to the City Manager which shall include;

(a) Community Arts Investment Program (CAIP) Category 2:

(i) a listing of all applications considered for funding under the Community Arts Investment Program (CAIP) Category 2 including the organizations applying as well as the amount of funding sought;

- (ii) a list of all applications funded including a brief description of the proposal of each successful applicant who received Community Arts Investment Program (CAIP) Category 2 funding;
  - (iii) a list of any unallocated funds that shall remain to be allocated as part of the CAIP Category 2 allocation process for the following year;
  - (iv) a report on any conflict of interest, complaints or concerns which were raised during the timeframe being reported; and
  - (v) a descriptive report on an analysis of the overall impacts of this granting program and process on arts for London, based upon the evaluation forms received from CAIP Category 2 recipients of the previous year.
- (b) London Culture Website [www.londonculture.ca](http://www.londonculture.ca) annual statistics concerning:
- The number of users accessing the website;
  - The most accessed web pages
  - A summary of the overall outcomes of the London Culture Website.
- (c) London Culture Days celebration attendance, number of sites, types of programming at each site, annual successes and challenges, volunteers, complaints, leveraged funding from other sources.
- (d) London Artists in Residence (LAIR) program, number of schools, teachers, artists and students; types of artists and leveraged funding from other sources.

## **PART 7 – COMPLIANCE WITH LEGISLATION**

7.1 LAC agrees that it shall during the term of this Agreement be in compliance with all federal and provincial laws and regulations, all municipal by-laws and any other applicable orders, rules and by-laws.

7.2 LAC shall operate independently of the City and is not the agent or servant of the City for any purpose.

7.3 LAC acknowledges and agrees this Agreement is in no way deemed or construed to be an Agreement of Employment. Specifically, the parties agree that it is not intended by this Agreement that LAC or its employees, are to be employees of or have an employment relationship of any kind with the City or are in any way entitled to employment benefits of any kind whatsoever from the City, including but not limited to private programs or coverages, and statutory programs and coverages, whether under employment statutes, worker's compensation plans, unemployment/employment schemes, health plan contributions, or otherwise ("Employment Benefits"). LAC further acknowledges and agrees that it is the sole and exclusive responsibility of LAC to make its own determination as to its status under the *Employment Standards Act*, 2000, S.O. 2000, c. 41; the *Income Tax Act*, R.S.C. 1985 c.1 (1st Supp); the *Canada Pension Act*, R.S.C. 1985, c.C-8; the *Employment Insurance Act*, S.O. 1996,c.23; the *Workplace Safety and Insurance Act*, 1997 S.O. 1997, c.26(Schedule "A"); the *Occupational Health and Safety Act*, R.S.O. 1990, c.o.1; the *Pay Equity Act*, R. S. O. 1990, c.P.7; or the *Health Insurance Act*, R.S.O. 1990, c.H.6; all as amended from time to time, and any legislation in substitution therefor and, in particular, to comply with the provisions of any of the aforesaid Acts, and to make any payments required thereunder.

7.4 LAC shall ensure that all its employees, agents, volunteers, or others for whom the LAC is legally responsible receive training regarding the provision of the Services contemplated herein to persons with disabilities in accordance with Section 6 of Ontario Regulation 429/07 (the "Regulation") made under the *Accessibility for Ontarians with Disabilities Act*, 2005, as amended the "Act"). LAC shall ensure that such training includes, without limitation, a review of the purposes of the Act and the requirements of the Regulation, as well as instruction regarding all matters set out in Section 6 of the Regulation. LAC shall submit to the City, as required from time to time, documentation

describing its customer service training policies, practices and procedures, and a summary of its training program, together with a record of the dates on which training was provided and a list of the employees, agents volunteers or others who received such training. The City reserves the right to require LAC to amend its training policies to meet the requirements of the Act and the Regulation.

7.5 In accordance with the *Municipal Freedom of Information and Protection of Privacy Act*, LAC, its directors, officers, employees, agents and volunteers shall hold confidential and shall not disclose or release to any person at any time during or following the term of this Agreement, except where required by law, or as required under this Agreement, any information or document without obtaining the written consent of the individual/organization concerned prior to the release or disclosure of such information or document and shall comply with the requirements regarding personal Information and confidentiality as contained in **Schedule "A"** attached hereto and forming part of this Agreement.

7.6 When collecting personal information under this Agreement, LAC shall use only the forms approved by the City for that purpose.

## **PART 8 - INSURANCE AND INDEMNITY**

8.1 Throughout the term of this Agreement, LAC shall maintain general liability insurance on an occurrence basis for an amount of not less than Two Million Dollars (\$2,000,000) and shall include the City as an additional insured with respect to LAC's operations, acts and omissions relating to its obligations under this Agreement, such policy to include non-owned automobile liability, personal liability, personal injury, broad form property damage, contractual liability, owners' and contractor's protective products and completed operations, contingent employers liability, cross liability and severability of interest clauses. LAC shall submit, on an annual basis in advance of expiry, a completed standard Insurance Certificate (Form #0788), which provides for a minimum of thirty (30) days' notice in advance of cancellation of such insurance.

8.2 LAC shall submit, on an annual basis, a comprehensive (3D) Dishonesty, Disappearance and Destruction Blanket Position Policy or equivalent Fidelity Bond in the amount of One Hundred Thousand Dollars (\$100,000). The City shall be shown on the policy as a named Obligee, with respect to incidents arising from work performed under this Agreement.

8.3 The City reserves the right to request such higher limits of insurance or other types of policies appropriate to this Agreement as it may reasonably require from time to time; and any failure by LAC to satisfactorily meet these conditions relating to insurance shall be deemed a breach of this Agreement by LAC.

8.4 LAC undertakes and agrees to defend and indemnify the City and hold the City harmless from and against all claims, demands, suits, losses, costs, damages and expenses that the City may sustain or incur by reason of:

(a) any breach of this Agreement, including but not limited to damage to any and all persons or property, all fines or penalties or loss or misuse of funds, by LAC, its employees or persons for whom it is at law responsible;

(b) any claim or finding that LAC, its employees or persons for whom LAC is at law responsible are employees of, or are in any employment relationship with, the City or are entitled to any Employment Benefits of any kind; or any liability on the part of the City, under the *Income Tax Act* (Canada) or any other statute (including, without limitation, any Employment Benefits statute), to make contributions, withhold or remit any monies or make any deductions from payments, or to pay any related interest or penalties, in connection with the performance of Services or otherwise in connection with this Agreement; and

(c) LAC further agrees, in accordance with section 10.9, this indemnification shall survive the expiration and termination of this Agreement for claims arising from or out of incidents occurring during the term of this Agreement.

## **PART 9 - DEFAULT AND TERMINATION**

9.1 Events of Default. The following constitute events of default, the proof of which to the contrary lies upon LAC:



- (a) LAC becomes bankrupt or insolvent, goes into receivership, or takes the benefit of any statute from time to time being enforced relating to bankrupt or insolvent debtors;
- (b) an order is made or resolution passed for winding up or for the dissolution of LAC or it is dissolved;
- (c) LAC ceases actual bona fide operation for a period of thirty (30) days;
- (d) LAC has knowingly submitted false or misleading information to the City; or
- (e) LAC is in breach of the performance of, or compliance with, any term, condition or obligation on its part to be observed or performed under this Agreement.

9.2 Remedies on Default/Termination on Default. If an event of default occurs, the City may, at any time, take one or more of the following actions in addition to any other remedy that may be available to it:

- (a) initiate any action the City considers necessary in order to facilitate the provision of the Services, the successful application of the Fee for the Services or for the allocation of the funding provided under the Community Arts Investment Program (CAIP) Category 2;
- (b) provide the LAC with an opportunity to remedy the event of default;
- (c) suspend the payment of the Fee for such period as the City determines appropriate;
- (d) reduce the amount of the Fee;
- (e) demand the repayment of any of the Fee or funds provided to it for allocation under the Community Arts Investment Program (CAIP) Category 2 remaining in the possession or under the control of the LAC;
- (f) demand the repayment of any amount equal to any of the Fee LAC used, but did not use in accordance with this Agreement;
- (g) demand the repayment of any amount equal to any of the funds disbursed under the Community Arts Investment Program (CAIP) Category 2 that were not used, allocated or disbursed in accordance with this Agreement;
- (h) demand the repayment of any amount equal to any of the Fee the City provided to LAC;
- (i) demand the repayment of any amount equal to the funds provided by the City to LAC for allocation under the Community Arts Investment Program (CAIP) Category 2; or
- (j) terminate this Agreement at any time, including immediately, upon giving Notice to LAC.

9.3 LAC Not Remediating. If under section 9.2 the City has provided LAC with an opportunity to remedy the event of default and LAC does not remedy the event of default within the time specified by the City in the notice, the City may in its sole discretion extend the notice period or initiate any one or more of the actions provided in section 9.2.

9.4 Obligation to return Fee and CAIP Category 2 funds to the City. If the City has demanded any repayment under section 9.2, LAC agrees that it shall forthwith remit such repayment to the City.

9.5 This Agreement may be terminated at any time by either party providing sixty (60) days' notice in writing to the other or by the City and LAC agreeing in writing at any time to the termination of this Agreement.

9.6 Upon receipt or rendering of notice that this Agreement is ending, LAC shall perform no further services other than those reasonably necessary to close out its services and report to the City.

9.7 On termination or expiration of this Agreement, LAC shall return any unused portion of the Fee and any funds provided to it by the City for grants to be made under the Community Arts Investment Program (CAIP) Category 2 that have not been allocated under the program.

## **PART 10 - GENERAL**

10.1 The parties agree that each of them shall, upon reasonable request of the other, do or cause to be done all further lawful acts, deeds and assurances whatever for the better performance of the terms and conditions of this Agreement.

10.2 If any part of this Agreement is rendered invalid, the remainder of the agreement continues to apply.

10.3 This Agreement constitutes the entire agreement between the parties pertaining to the subject matter hereof and supersedes all prior agreements, arrangement (interim or otherwise), letters of intent, understandings, negotiations and discussions, whether oral or written, of the parties pertaining to such subject matter.

10.4 No subsequent alteration, amendment, change or addition to this Agreement shall be binding on the City or LAC unless in writing signed by each of them.

10.5 LAC shall not assign this Agreement without the prior written consent of the City which consent may be withheld for any reason in the City's sole discretion.

10.6 This Agreement shall enure to the benefit of and be binding upon the parties and their respective successors or assigns.

10.7 Under this Agreement, any notices required under this Agreement shall be in writing and shall be delivered by postage-prepaid mail, personal delivery, recognized courier or fax and shall be addressed to the other party for whom it is intended and any notice shall be deemed to have been given:

- (a) if delivered personally or by recognized courier on the date of such delivery; or
- (b) if by fax, when transmitted if received before 4:30pm local time at the recipient's office or failing which on the next business day; or
- (c) if delivered by postage prepaid mail, three (3) days after the party mails it.

Any notices under this Agreement shall be sent to the City and LAC as follows:

- (a) The Corporation of the City of London  
300 Dufferin Ave., 3rd floor  
P.O. Box 5035  
London. ON N6A 4L9  
Attention: City Clerk
- (b) London Arts Council  
251 Dundas Street  
LONDON, ON N6A 6H9  
Attention: Executive Director

10.8 This Agreement shall be governed and interpreted in accordance with the laws of Ontario and Canada applicable to this Agreement, and shall be treated in all respects as an Ontario contract. LAC and the City specifically submit to the exclusive jurisdiction of the courts of Ontario and Canada.

10.9 The following provisions and any applicable cross-referenced provisions and schedules shall continue in full force and effect for a period of seven (7) years from the date of expiry or other termination of this Agreement: Part 1 and any other applicable definitions; section 4.3; Part 6; paragraphs (e)(f)(g)(h) and (i) of section 9.2; section 9.4; section 9.6; section 9.7 and Part 10. Section 8.4 and any applicable cross-referenced provisions and schedules shall continue in full force and effect for a period of two (2) years from the date of expiry or other termination of this Agreement.

10.10 LAC acknowledges that it has read this Agreement, understands it and agrees to be bound by its terms and conditions.

IN WITNESS WHEREOF the Parties hereto have hereunto affixed their corporate seals attested to by the hands of their respective authorized signing officers.

**THE CORPORATION OF THE  
CITY OF LONDON**

**LONDON ARTS COUNCIL**

\_\_\_\_\_  
Matt Brown, Mayor

\_\_\_\_\_  
Andrea Halwa, Executive Director

I have authority to bind the corporation

\_\_\_\_\_  
Catharine Saunders, City Clerk

## **SCHEDULE "A"**

### **Freedom of Information and Protection of Privacy**

1. In this Schedule:
  - (a) "City Information" means General Information and Personal Information:
    - (i) provided by the City to the London Arts Council in relation to this Agreement;
    - (ii) collected by the London Arts Council in relation to this Agreement; or
    - (iii) derived by the London Arts Council from the General Information and Personal Information provided under subsection 1(a)(i) or collected under subsection 1(a)(ii);
  - (b) "London Arts Council Information" means General Information and Personal Information, except City Information, provided by the London Arts Council to the City in relation to this Agreement;
  - (c) "General Information" means recorded information that is not Personal Information; and
  - (d) "Personal Information" means recorded information about an identifiable individual, including,
    - (i) information relating to the race, national or ethnic origin, colour, religion, age, sex, sexual orientation or marital or family status of the individual,
    - (ii) information relating to the education or the medical, psychiatric, psychological, criminal or employment history of the individual or information relating to financial transactions in which the individual has been involved,
    - (iii) any identifying number, symbol or other particular assigned to the individual,
    - (iv) the address, telephone number, fingerprints or blood type of the individual,
    - (v) the personal opinions or views of the individual except if they relate to another individual,
    - (vi) correspondence sent to an institution by the individual that is implicitly or explicitly of a private or confidential nature, and replies to that correspondence that would reveal the contents of the original correspondence,
    - (vii) the views or opinions of another individual about the individual, and
    - (viii) the individual's name if it appears with other personal information relating to the individual or where the disclosure of the name would reveal other personal information about the individual.
2. All City Information shall remain the sole property of the City and any part of it or all of it shall be given by the London Arts Council to the City within 5 business days of:
  - (a) the City's written request; or
  - (b) the termination or expiry of this Agreement.
3. Except in accordance with this Agreement, the London Arts Council shall, when collecting City Information that is Personal Information:
  - (a) limit its collection of the information to that which is necessary for it to comply with this Agreement;
  - (b) make its best efforts to collect the information directly from the individual to whom the information relates by fair and lawful means; and

- (c) identify the purpose for which the information is collected to the individual at or before the time of collection.
4. The London Arts Council shall retain all City Information in a manner that protects its security and confidentiality and shall not disclose City information to any of its personnel not having a need to know such information in relation to the performance of this Agreement.
  5. Except:
    - (a) with the consent of the individual; or
    - (b) in accordance with this Agreement, the London Arts Council shall not use City Information that is Personal Information for purposes other than that for which it was collected.
  6. Except for law enforcement purposes and in accordance with this Agreement, the London Arts Council shall not disclose City Information in any manner whatsoever without the prior approval in writing of the City.
  7. The London Arts Council shall not destroy any City Information.
  8. Subject to all applicable legislation, including the *Municipal Freedom of Information and Protection of Privacy Act*, the City may disclose:
    - (a) any part of or all London Arts Council Information; or
    - (b) any part or all of this Agreement.