

## **DONOR AGREEMENT**

THIS AGREEMENT (Agreement) is effective as of the latest date shown in the signature block below, by and between the **City of Toledo**, an Ohio municipal corporation (“**City**”) whose principle place of business is One Government Center, Suite 2200, Toledo, Ohio 43604, and the **Joseph J. and Marie P. Schedel Foundation**, an Ohio non-profit corporation (“**Schedel Foundation**”) whose principle place of business is 19255 W. Portage River South Rd., Elmore, OH 43416 (collectively “the Parties”).

**WHEREAS**, under Ordinance No. 320-93, the City entered into an Agreement dated May 11, 1993 (“the 1993 Agreement”) to accept a gift of a unique art collection of lithophanes known as “the Blair Museum of Lithophanes” (“Museum”) from the Blair Museum, Inc. and Laurel G. Blair, under which the **City** accepted certain obligations for the maintenance and display of the Museum Collection (“Collection”), which the City has fulfilled to date by housing the Collection at the Toledo Botanical Gardens; and

**WHEREAS**, as a result of the transfer of the Toledo Botanical Gardens from the City to the Metropolitan Park District of the Toledo Area the City is without a suitable location for display of the Collection; and

**WHEREAS**, under the 1993 Agreement the City is obligated to transfer the Collection to a successor recipient who will legally obligate itself to fulfill the obligations assumed by the City for the maintenance and display of the Collection; and

**WHEREAS**, the Schedel Foundation has agreed to assume and fulfill the extant obligations of the City under the 1993 Agreement; now

**THEREFORE**, the Parties agree as follows:

### **TERMS AND CONDITIONS**

#### **1. Assignment of Extant Rights and Obligations under the 1993 Agreement.**

- A. The City agrees to assign its ownership rights to the Museum and the Collection, as defined below, to the Schedel Foundation, free and clear of any encumbrances. The transfer shall occur on a date selected by the Schedel Foundation not later than September 1, 2020 (“Transfer Date”), and shall be completed by the City’s execution of a transfer instrument acceptable to both Parties.
- B. After the Transfer Date the Schedel Foundation agrees to assume the extant obligations of the City for the maintenance and display of the Collection under Paragraphs 8 and 9 of the 1993 Agreement. Specifically, the Schedel Foundation will:

- i. Maintain the integrity of the Collection by keeping together the central pieces of the Collection and maintaining the Collection in a display open to the public at the Schedel Gardens & Arboretum in Elmore Ohio. It is agreed that this display obligation is satisfied if the Collection is open to the public for at least the same period of time and on a schedule similar to that maintained at its current location in the Toledo Botanical Gardens (“the Premises”).
- ii. Sell or trade pieces of the Collection only if deemed by the Schedel Foundation to be duplicates, unneeded or of little value; and segregate any sale proceeds and use such proceeds solely for the maintenance and display of the Collection.
- iii. In the event that, due to unforeseen events, the Schedel Foundation is unable to fulfill its agreement to maintain and display the Collection to the public, it shall be obligated to make a good faith effort to locate another suitable non-profit entity to accept the Collection, and transfer the Collection to a successor recipient who will legally obligates itself to fulfill all obligations assumed by the Schedel Foundation hereunder for the maintenance and display of the Collection.

2. **Definitions.** The Museum is defined as:

- A. all Lithophanes acquired by the City under the 1993 Agreement or later acquired by the City for display in the Museum (“ the Collection”);
- B. all cabinets and fixtures currently used to display or store the Collection;
- C. all furniture, furnishings or other tangible personal property currently located at the Museum’s premises at the Toledo Botanical Garden, Toledo, Ohio (“the Premises);
- D. all lighting fixtures on the Premises used to display the Collection;
- E. components of the security system on the Premises, including security cameras;
- F. all records pertaining to the operation of the Museum.

3. **City obligations through the Transfer Date:** The City agrees to:

- A. Continue to house the Collection on the Premises and continue to pay the customary costs.
- B. Maintain the security system at the Premises;
- C. Maintain the current insurance on the Premises, the Collection and the Museum; including insuring the Collection through transport to the Schedel Gardens and Arboretum;

- D. Continue to afford Friends of the Blair Museum, Inc. an Ohio non-profit corporation (“Friends”), which has for many years assumed responsibility for the operation of the Museum and the maintenance of the Collection, access to the Museum and permit use of the Premises by Friends for scheduled tours and for fundraising events;
- E. Donate Five Thousand Dollars (\$5,000.00) to Friends, to be used to defray the cost of relocating the Collection. Such costs will include securely packing and transporting the Collection, as well as removing, transporting and re-installing all display cases, lighting fixtures, furnishings, and security systems and related items on the Premises used to display the Collection. The parties acknowledge that Friends will assume responsibility for packing and relocating the Collection and other Museum property to the Schedel Gardens & Arboretum.

4. **Insurance.** The City will maintain the current policy of fine arts and or/property insurance on the Collection, which will include in-transit coverage through delivery of the Collection to the Schedel Gardens & Arboretum in Elmore, Ohio. After delivery, the Schedel Foundation will maintain insurance on the Collection at no less than the current level maintained by the City.

5. **Miscellaneous.**

- A. Both Parties represent and warrant they have the right and power to enter into and fully perform the terms and provisions of this Agreement, and will not enter into any agreement interfering with the full and prompt performance of their obligations hereunder.
- B. This instrument constitutes the sole and only agreement of the Parties relating to the subject matter hereof and correctly sets forth the rights, duties, and obligations of each to the other as of its date. This Agreement supersedes any and all prior agreements, between the parties constitutes the entire agreement between the parties, and cannot be modified except by written instrument. If any clause of this Agreement is determined to be unenforceable or invalid, this Agreement shall be read as though such clause was not contained in the Agreement.
- C. This Agreement shall be binding upon and inure to the benefit of the Parties hereto.
- D. This Agreement shall be governed and construed in accordance with the laws of the State of Ohio.

**The City of Toledo**

**The Schedel Foundation**

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Wade Kapszukiewicz, Mayor

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Rodney D. Noble, Executive Director

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

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

**APPROVED AS TO CONTENT**

**APPROVED AS TO FORM:**

\_\_\_\_\_  
Legislative Director

\_\_\_\_\_  
City of Toledo, Department of Law

**EXHIBIT A**

**Blair Museum of Lithophane Collection  
Art Work Inventory List**

**Inventory of Other Personal Property Transferred**