Working with Living Artists: from Contract to Close

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Working with Living Artists: The Process

Initial Concept
- The Artist's Perspective: A Timeline
- Establishing a Relationship
- Parameters (the BIG picture)
- Cross Promotion and Publicity
- The All Important Catalog
- Paying the Artist

Project Development
- Contracts!
- Project Timeline
- Budgets

Implementation
- Managing Final Logistics Planning
- Managing the Work
- Managing the Installation
- Managing the Unexpected
The Artist Perspective

Checklist of Points to Review

1-2 years in advance
- Do you have a clear understanding of the concept of the exhibition?
- Is the vision of the exhibition realistic and can it be done in the timeframe provided?
- Have you read and re-read through all contracts?
- Do you understand what is being asked of your studio in terms of:
  - timelines for expected work
  - delivery and installation
  - scheduled interviews or studio visits with museum staff
  - supplying hi-res photography of work
  - providing access to your catalog of work
  - providing access to significant collectors that may be loaning work
  - insurance required to cover the outgoing work

1 year to 9 months in advance
- Have you updated your CV and mailing list and made it available?
- Are you keeping an accurate record of what work is leaving the studio for the exhibition?
- If the work is to be completed for the exhibition, are you keeping on schedule and are you sharing your progress?

6-9 months in advance
- Have you made plans on how to execute the delivery of the work to the space?
- Are you supplying everything needed for installation? If not, have you made the registrar aware of what they will need to complete the installation? Have you supplied care instructions?

1-4 months in advance
- Are your travel arrangements in order? Have you assessed how much help you will need during installation? If you are bringing assistants, are they accounted for in the travel arrangements?
- Are you aware of all openings or other events associated with the exhibition?
Establishing a Relationship with the Artist

★ Create an open line of communication - meet personally
★ If possible, go for a studio visit
★ Do not rely on the curator to provide all needed information - make contact
★ Be aware of what has been discussed with the curator
★ Be willing to explain all forms and processes
★ Discuss the artist's intent and expectations
★ Get specifics on installation
★ Be real about what the museum can and cannot provide regarding building and gallery limitations
★ Make no promises regarding funds or spending
★ Discuss insurance (studio cost of materials vs. fine arts insurance outside the studio), contracts, loan agreements and non-compete clauses
★ Establish best method of contact: email, text or phone and available hours for communication
★ Use a professional and courteous tone in emails and phone communications
Cross Promotion and Publicity

- Is the artist in a position to contribute to advertising?
- Is the artist donating any proceeds of sales related to the exhibition?
- Can the artist assist in fundraising or can his collectors contribute?
- Can the artist collaborate with you on promotional materials?
- Are you in communication with the artist about media responsibilities—articles being written, social media coverage?
- Does the artist know how your organization should be referenced during media opportunities?
What are the parameters for the project?

- Is the work part of an exhibition or in a stand alone space?
- Will the work/s be displayed in one location or separate areas in the museum as part of the same exhibition?
- Are there space limitations? Weight limitations (floor, ceiling, wall)?
- Does the work have sound requirements? Who will provide?
- Is the work interactive? How will the audience interact with the work?
- Will the work include a performance during the opening or during the run of the exhibition?
- How long will the work be on display?
- Will there be maintenance? Will the museum need to hire an outside consultant?
The All Important Catalog

- Will there be a catalog?
- Who covers the cost?
- Who supplies photography?
- Who will write the essay?
- Does the artist need to supply an artist statement?
- How many catalogs does the artist receive?
- Who else can distribute the catalog after the exhibition?
- Who will be the contact for catalogs?
Does the artist expect to get paid?

While most artists expect the prestige of museum exhibitions to be the only reward they receive, some occasions do warrant payment and should be considered during contract negotiations. Some situations to consider:

- Installations
- Lecture fees
- Travel per diem
- Travel expenses
- Acquisitions
Project Development

- Contracts!
- Project Timeline
- Budget
Contracts

5 Documents for the process:

- MOU (Memorandum of Understanding)
  *can be part of the Artist Contract*
- Artist Contact
- Installation Contract
- Loan Agreement / Deed of Gift
- Certificate of Insurance

These documents should include the following items:

- Services
- Deadlines
- Insurance
- Handling, Care & Shipping
- Documentation
- Security
- Compensation
- Licenses and Certifications
- Property Rights
- Confidentiality
- Indemnification and Hold Harmless
- Independent Contract
- Non-Performance and Breach of Contract
- Governing Law and Jurisdiction
- Mediation
- Entire Agreement, Modification
- Signatures
Terminology
Understanding contract lingo

Breach of Contract - known as a legal cause of action or civil wrongdoing. When a binding agreement is not honored by one or more parties.

Hold Harmless / Indemnity - Hold Harmless is known as the “liability waiver or to call someone blameless” this is a contract that states: one party agrees not to sue the other for any expense, damages or losses that may occur from the transaction/activity. Indemnity is the duty to make good (reimburse) for any loss, damage or liability incurred by the each other. These two usually go hand in hand on contracts. (NOTE: this is different than the Arts and Artifacts Indemnity Program that reduces the costs for insuring international exhibitions)

A Memorandum of Understanding (MOU) - a formal agreement between two or more parties. These are used to establish official partnerships. While not legally binding, they show both (or all) parties are invested.
Memorandum of Understanding (MOU)

This document commits the artist's time and includes basic information regarding the project.

Should include the following (made specific per your institution or governance):

- Introduction (with a title and description of the project, dates of display, and ready by date)
- Background/Mission
- Purpose (with a brief description of project & deadlines for installation)
- Reporting (listing the managing staff member)
- Funding (listing payment and payment schedule)
- Duration
- Public Relations/Marketing (brief description of expectations and commitments)
- Contact information (museum staff and artist)

Once the MOU has been signed, arrange to meet or speak with artist with the curator about their work; if possible arrange a site visit to their studio.
Artist and/or Installation Contract

Details all the specifics on the project, installation, compensation, etc. Include as much information as possible!

Should include the following (made specific per your institution or governance):

➔ Exhibition (general information)
➔ Installation/Artwork (single work listed or as an attachment for multiple works)
➔ Service (deadlines, what Museum is responsible for)
  ● Insurance
  ● Handling/Care
  ● Documentation
  ● Security
➔ Compensation (detailed pay schedule)
➔ Licenses & Certifications
➔ Public Relations & Marketing
➔ Property Rights
➔ Confidentiality
➔ Advisement
➔ Indemnification & Hold Harmless
➔ Independent Contractor
➔ Non-Performance & Breach of Contract
➔ Governing Law & Jurisdiction
➔ Mediation
Make sure to include the following in the artist contract:

- Calendar with all pertinent dates at a glance
- Required attendance for publicity function/opening parties, etc.
- Required speaking engagements
- Number of catalogues artist will receive and at what cost afterwards?
- Hours of operation, working hours for installation
- Payment schedule (if applicable)
- Requirements and needs of installation and deinstallation
- Against Museum advisement clause example (on lighting, change to needs of your museum and check with your legal representative):

Example: The museum standard for lighting [fill in medium] is 5-10 footcandles (visible light), but the [fill in description of where work is being displayed] where your work is displayed is considerably brighter at 50-75 footcandles. High light levels, particularly UV, can cause photochemical deterioration to [fill in medium], primarily resulting in fading or discoloration. The [fill in time frame of exhibition] run of the exhibition is relatively short, but the negative effects of light are cumulative. When we consider risks to artwork, either in our collection or on loan to us, we consider the entire life of work. If you are willing to take the risk, please let initial below OR confirm via email at your earliest convenience.
Loan Agreement / Deed of Gift

Specifics regarding the artwork...make sure the artist has a clear understanding of these documents!

Review the following with the artist:

➔ Will this work be loaned? Or is it a gift?
➔ Exhibition dates vs. loan dates
➔ Availability to release and receive work/s
➔ Packing of their work
➔ How a fine arts shipping works
➔ Insurance Value
➔ Copyright
➔ Rights and Reproduction
Certificates of Insurance (COI)

- Who is insuring?
- If it is the museum, make sure they are aware of all standard exclusions!
- COI is date specific to the loan period and includes transit - nail to nail? Condition report to condition report?
- Should you buy a separate policy or use your blanket policy to provide the COI?
- Is the artist using any of their own contracts?
- Any questions regarding your individual policy should be directed to your agent prior to issuing the COI.
- Managing the risk: require condition reports, photographs and packing/shipping requirements
Project Timeline

1-2 years in advance (can be longer)
- Meeting with Artist, concept discussed
- Memorandum of Understanding (MOU) sent
- MOU signed and returned for countersignature

18 months to 1 year in advance
- Follow up meeting with Artist regarding project
- Artist /Installation Contract should be sent unsigned for Artist to sign first, then countersigned by your institution
- Artist Information Checklist

12-18 months in advance
- Loan Agreement sent
- Artist/Installation Contract returned for countersignature
- Artist Information Checklist returned
- Loan Agreement returned for countersignature

6-9 months in advance
- Packing/Shipping details confirmed, including possible pick-up dates
- Installation requirements confirmed

3-4 months in advance
- Arrange travel and accommodations for Artist/Installer; send details and confirmations

4-6 weeks in advance
- Works packed and shipped to your institution

Installation period: 2-4 weeks in advance
- After acclimatizing, works are unpacked, conditioned and installed

Opening Night
- Opening of exhibition!
**Sample Budget**

- How do you begin?
- Approved costs vs. spent costs
- Unexpected costs
- Dreaming big vs. reality of costs

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**XYZ Museum**  
**Exhibition Expense Budget**  
**Fiscal Year - FY 17**  
**Example Exhibition**  
**January 20 - April 28, 2017**

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<th>EXHIBITION EXPENSES</th>
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<th>Spent</th>
<th>Excess/Overage</th>
<th>Notes</th>
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<td><strong>$16,400</strong></td>
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Using Technology as a Resource - all free!

Google/Gmail - create calendars, docs, sheets and slides related to the project that you can share and work on with colleagues.

Formmule - a Google sheets add-on. Create deadlines on a Spreadsheet and have it transferred directly to your Google calendar!

Wunderlist - a “to-do” list - this to-do list can be accessed via app on your smartphone and web page. You can separate projects and also add tasks to your calendar. These lists can also be accessed by multiple people.

Trello - a “to-do” list that is great for groups and can create a visual pipeline. It can be tailored to your needs. This can also be accessed via app on your smartphone and web page.

Evernote - an organization app that helps get projects organized and allows the sharing of notes. This can also be accessed via app on your smartphone and web page.
Joy's soul lies in the doing.

IMPLEMENTATION

- Managing Final Logistics Planning
- Managing the Work
- Managing the Installation
- Managing the Unexpected
Managing Final Logistics Planning

One last opportunity for communication with all the museum teams

Installation Meeting:
- Agenda
- Review checklist and confirm the final layout with the Curator
- Exhibition Manager updated on current status
- Design team finalizes paint colors, vinyl, label copy
- Lead Tech/Preparator confirms supplies in place; plan for any building is complete
- Registrar confirms loan paperwork and shipping are in place
- Does the Facilities/Security team need to be updated about any upcoming issues?
- Education Department updates
- Review budget with everyone
Managing the Work

Artist / Artist’s Studio / Gallery
● Inconsistent experience working with museums

Transport
● Who is covering insurance?
● Who is paying for the shipping?
● Value of the work/fragility
● Transport timeframes

Packing
● Do you depend on the artist, etc., for packing?
● Packing/condition reporting by shipper
● Request images
Anticipating the Installation

- Artist and team onsite for installation
- Anticipated timeframe
- Anticipated UMMA team support
- Limitations of language
- Additional equipment needs
- Limitations of access to the museum equipment/use of power tools
- Issues of liability: Who can climb a ladder/operate a lift?
Managing the Installation

- Artist Studio team onsite for installation
- Studio team accustomed to working long hours
- Artist available to them at odd hours
- Unexpected glitches with equipment
- Time-frame for problem-solving
- Upkeep
Managing the Installation

Outdoor installations
● Timing is everything!

Other thoughts:
● Make sure enough time is left for lighting and labels
● Are there special lighting requirements?
● Technical needs/instructions for turning on and off; troubleshooting
● Artwork with sound components
● Anticipate that your crew will get tired and cranky
● Hired a team with experience installing artist’s work
● Managing travel/hotel/per diem logistics
● Care for couriers/install team

Artist onsite to do final placement of work

Anticipated timeframe

Significant pre-planning
● What wasn’t huge was heavy
● Crates too big/long for the elevator
Managing the Unexpected

Immediately:
● Step back and take a deep breath
● Reach out to colleagues for advice
● Ask yourself: What is the big picture here, what are we trying to do?

Problem-solving:
● Needs of the artist
● Needs of the institution
● Needs of the artwork
● It can help if someone in charge is the “No” person; know the communication hierarchy ahead of time

Issues
● Budget
● Time
● Staff
Practical Tips

- Always get it in writing! Follow-up any phone call or meeting with an email noting what was discussed.
- Have multiple people read the contracts (i.e. education, curatorial and registration) to get their opinions.
- Don’t be afraid to speak up! And always be calm and professional when you do.
- Document and photograph!
- Keep a calendar/timeline and utilize notifications!
- Meet regularly with team members to make sure everyone is on track.
Thank You

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