Department of Tourism and State Development

South Dakota Arts Council
711 E. Wells Avenue
Pierre, SD 57501-3369

PLEASE NOTE: This document MUST be signed and returned to the South Dakota Arts Council office, along with the Excursion Fund Evaluation Form and a W-9 form. (Please make and retain a file copy.)

EXCURSION GRANT TERMS AND CONDITIONS

CREDIT

All published material and announcements regarding any project or production which is financed in part under this grant must include the following special acknowledgment statement: ***South Dakota Arts Council support is provided with funds from the State of South Dakota, through the Department of Tourism and State Development, and the National Endowment for the Arts.*** (In order to inform audiences of the importance of governmental support for the arts, we request that you include a display advertisement in your printed programs and/or organizational newsletters. Camera-ready slicks for this purpose are provided for you.)

FINANCIAL MANAGEMENT

- Grants are for the period specified in the approved application. Funds must be obligated within the period stated unless an extension has been approved by the Office of Arts.

- Funds granted shall be expended solely for the activities described in the approved application unless specific changes have been approved by the Office of Arts. Any funds granted but not expended or committed shall be returned to the South Dakota Arts Council at the conclusion of the grant period.

- The applicant assures that fund accounting, auditing and monitoring and such evaluation procedures as may be necessary to keep such records as the South Dakota Arts Council shall prescribe will be provided to assure fiscal control, proper management, and efficient disbursement of funds received through the South Dakota Arts Council.

- Grantees shall establish and maintain accounts in such a manner as to separate grant funds and matching funds and shall reflect all receipts, obligations and disbursements of project funds. Since expenditures of these funds are subject to audit, all financial records, including substantiating documentation (e.g. payroll vouchers, invoices, bills) must be maintained for three years or until a federal audit has been completed and any questions arising from it have been resolved, whichever is the lesser period.

Grantees shall submit an evaluation to the South Dakota Arts Council within 30 days after the completion of the project. Subsequent grants are dependent upon receipt of completed evaluation reports. Subsequent grants are dependent upon receipt of completed evaluation reports.

Grants made by the National Endowment for the Arts and sub-granted by the South Dakota Arts Council are subject to the requirements outlined in OMB Circulars A-21, A-87, A-110, and A-122. Grantees agree to abide by all federal and state regulations, including the following certified assurances.

CERTIFIED ASSURANCES

1. **Fair Labor Standards Act** states that all professional performers and related or supporting personnel employed on projects or productions which are financed in whole or in part under the grant shall receive not less than the minimum compensation as determined by the Secretary of Labor.

No part of any project or production which is financed in whole or in part under the grant will be performed or engaged in under working conditions which are unsanitary or hazardous or dangerous to the health and safety of the employees engaged in such project or production.

2. **Title VI of the Civil Rights Act of 1964**, as amended, provides that no person in the United States shall, *on the grounds of race, color or national origin*, be excluded from participation in, be denied benefits of, or be subject to discrimination under any program or activity receiving federal financial assistance. Title VI also extends protection to persons with limited English proficiency.

3. **Section 504 of the Rehabilitation Act of 1973** provides that no otherwise qualified disabled individual in the United States, as defined in section 7(6)*, shall, *solely by reason of his/her disability*, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal assistance. Under this regulation, a federally funded arts program when viewed in its entirety must be accessible to all persons. The National Endowment for the Arts issued its regulations in 1979 to enforce the existing law. Failure to comply with Section 504 can result in loss of federal funds.

* For the purpose of Section 504, the term "disabled individual" means any person who (a) has a physical or mental impairment which substantially limits one or more of such person's major life activities, (b) has a record of such impairment, or (c) is regarded as having such an impairment.

A self-evaluation must be on file at your organization. The National Endowment for the Arts has developed a Program Evaluation Workbook which may be used by a recipient to conduct a self-evaluation to determine if it is in compliance with 504 requirements. If you have not previously conducted this self-evaluation, you may wish to request a copy of the Program Evaluation Workbook, free of charge, by contacting the South Dakota Arts Council, 800 Governors Drive, Pierre, SD 57501.

4. **Americans with Disabilities Act (*ADA*) of 1990** prohibits discrimination on the basis of disability in employment (Title I), State and Local Government Services (Title II), and places of public accommodation and commercial facilities (Title III).

5. **Age Discrimination Act of 1975** provides that no person in the United States shall, *on the basis of age*, be excluded from participation in, be denied the benefits of, or be subject to discrimination under any program or activity receiving federal financial assistance.

6. **Title IX of the Education Amendments of 1972** provides that no person in the United States shall, *on the basis of sex*, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal assistance.

7. **Drug Free Workplace Act of 1988** requires that local educational agencies adopt a Drug Free Workplace Policy which is in compliance with the Drug Free Workplace Act and that grantees with more than ten employees identify a coordinator to implement the provisions of this act.

8. **Pro-Children Act of 1994** requires that smoking not be permitted in any indoor facility used routinely or regularly for the provision of "children's services" to persons under age 18, if the services are funded by specified federal programs either directly or through state or local governments. Local educational agencies must adopt the provisions of this act.

9. **Gun Free Schools Act** requires that local educational agencies adopt a Gun Free Policy, which is in compliance with SDCL 13-32-4.

10. As required by **Section 1352, Title 31 of the US Code**, grantees must adhere to the **prohibition against lobbying** within a federally supported grant project which states that no federal appropriated funds have been paid or will be paid by or on behalf of the grantee, to any person for influencing or attempting to influence an officer or employee of any agency, a member of Congress, an officer or employee of Congress, or an employee of a member of Congress in connection with the making of any federal grant, the entering into any federal grant or cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal grant or cooperative agreement.

11. As required by **Executive Order 12549, Debarment and Suspension**, the Grantee certifies that it and its principals:

(1) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any federal department or agency;

(2) Have not within a three-year period preceding the awarding of this grant been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (federal, state, or local) transaction or contract under a public transaction; violation of federal or state antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsifications or destruction of records, making false statements, or receiving stolen property.

(3) Are not presently indicted for or otherwise criminally or civilly charged by a governmental agency (federal, state, or local) with commission of any of the offenses enumerated in paragraph (11)(2) of this document;

(4) Have not within a three-year period preceding this grant award had one or more public transactions (federal, state, or local) terminated for cause or default.

Where the Grantee is unable to certify any of the above statements, he or she shall send a written explanation to the South Dakota Arts Council.

12. **The Native American Graves Protection and Repatriation Act of 1990** (25 U.S.C. 3001 et seq.) applies to any organization which controls or possesses Native American human remains and associated funerary objects, and which receives Federal funding, even for a purpose unrelated to the Act.

13. As required by **Federal Debt Status** (OMB Circular A-120), the grantee certifies that it is not delinquent in the repayment of any Federal debt.

14. All **travel outside the United States**, its territories, and Canada must be approved in writing by the State Arts Council before travel is undertaken. Additionally, any foreign air travel (inclusive of persons or property) that is paid in whole or in part with Endowment funds must be performed on a U.S. air carrier or a foreign air carrier under an air transport agreement with the United States when these services are available. U.S. air-carrier service is considered available even though a comparable or different kind of service can be provided at less cost by a foreign air carrier and/or foreign air-carrier service is preferred by, or is more convenient for, the traveler. For additional guidance, please contact the South Dakota Arts Council.

15. Consistent with 41 U.S.C. 10a-10c, "**Buy American Act**," subgrantees who are purchasing equipment and products through an Endowment-supported grant are encouraged, whenever possible, to purchase American-made equipment and products.

16. If your non-profit organization receives **$300,000 or more in federal financial assistance**, the State of South Dakota requires that an annual audit be conducted in accordance with OMB Circular A-133. Audits shall be completed and filed with the Department of Legislative Audit within the earlier of 30 days after the receipt of the auditor's report(s), or nine months after end of the audit period.*

* Audits must be conducted by an auditor that is approved by the Auditor General of the State of South Dakota. Auditor approval must be obtained annually and can be requested by forwarding a copy of the audit engagement letter to the Department of Legislative Audit. The Department of Legislative Audit will notify each auditor of approval or disapproval. For information concerning audits, contact: **Department of Legislative Audit, A-133 Coordinator, 427 S. Chapelle, c/o 500 E. Capitol, Pierre, SD 57501**

17. Recipients must maintain financial records, supporting documents, statistical records, and all other records pertinent to an award consistent with the provisions outlined in OMB Circular A-110, Section 53 or the Common Rule, Section 1157.42 as applicable. Generally, the retention period is three years from the date the final financial status report is filed.

18. The applicant assures that fund accounting, auditing, and monitoring and such evaluation procedures as may be necessary to keep such records as the South Dakota Arts Council shall prescribe will be provided to assure fiscal control, proper management, and efficient disbursement of funds received through the South Dakota Arts Council. In accordance with 34 CFR 80.21(c), Grantees/subgrantees shall be paid in advance, provided they maintain and demonstrate the willingness and ability to maintain procedures to minimize the time elapsing between the transfer of the funds and their disbursement by the grantee and subgrantee. **The funds should be requested when they can be expended within a 30-60 day time period.**

As the Grantee's authorized representative, I certify that _____
(Name of Grantee)
is in compliance with the GRANT TERMS AND CONDITIONS and CERTIFIED ASSURANCES outlined in this document.

Name (please print or type): _____

Title (please print or type): _____

Signature: _____ Date: _____

THIS DOCUMENT (1) must be completed and returned together with signed copies of (2) the W-9 FORM, (3) the Excursion Fund Evaluation form if you represent an organization or school. Your grant award will not be processed until these documents are on file in our office.

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