

Information:

Drawer: Accounts Payable - Invoices  
Vendor Number: 1596706  
Vendor Name: Artists Rights Society Inc  
Invoice Number: AR2INV1328  
Invoice Date: 06/30/20  
PO Number: P0370124  
Check Number: E0080745  
Check Amount: \$ 7,339.50  
Check Date: 07/08/2020  
Department ID: 11999  
Reviewer Name:  
Voucher Number: V0632644  
Redaction Type: None  
Document Type: AP Invoice-3 Way/Pre-Approved

Document Below

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From: mcgowan@cod.edu  
Sent: Wed Jul 01 11:57:35 CDT 2020  
To: invoicing@cod.edu  
CC:  
Subject: Inv Arts Rights Society #AR2TMP1547  
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**FY20**

Please process attached. Thank you.

Ellen McGowan  
Business Manager  
McAninch Arts Center  
College of DuPage  
425 Fawell Boulevard  
Glen Ellyn, IL 60137  
Phone 630.942.3009  
Fax 630.942.3002

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ARTISTS RIGHTS SOCIETY

**FY20**PO# 370124 = \$7339.50  
ok to close

05-60-11999-5309004

**INVOICE/AUTHORIZATION**To : McAninch Arts Center at College of DuPage  
425 Fawell Boulevard  
Glen Ellyn, IL 60137

Invoice: AR2INV1328

Attn: Molly Junokas  
Email: junokasm@cod.edu  
Phone: 630-942-3042

P.O.: PO# 370124

Date: 06/30/2020

Federal ID: I3-3405268

Project: Frida Kahlo: 70 licenses Exhibition Catalogue

Re: Artists rights permission, per your request

**AP VERIFIED****07/02/20 - MARIA ZERRUDO****The grant of rights is contingent upon payment of fees. Please see last page for applicable laws.**

As agent for the Banco de México, ARS represents the rights and permissions interests of the estates of Frida Kahlo and Diego Rivera. The right to grant permission to reproduce the listed work and distribute it worldwide is held in the U.S. by ARS.

Granted: One-time, non-exclusive English language, worldwide distribution rights for up to 3,000 print copies with a suggested retail price of \$34.95 only.

Permission is granted for the following reproductions:

Works by Frida Kahlo  
Retrato de Alicia Galant  
El camión  
La niña Viginia  
La mano  
Desnudo de Ady Weber (Mi prima)  
Desnudo de Eva Frederick  
Retrato de Lady Hastings  
Retrato de Eva Frederick  
Retrato de Luther Burbank  
Hospital Henry Ford  
Autorretrato con boina roja  
Frida y el aborto  
Unos cuantos piquetitos  
El difuntito Dimas Rosas (A los tres años de edad)  
Mi nana y yo  
Retrato de Doña Rosita Morillo  
Retrato del Ingeniero Eduardo Morillo Safa  
La columna rota  
La flor de la vida  
Fantasía  
Autorretrato con changuito**FY20**

\$7339.50

05-60-11999-5309004  
70 Licenses G20\_KAHLO**APPROVED****By Ellen McGowan at 11:53 am, Jul 01, 2020**

ARTISTS RIGHTS SOCIETY

## INVOICE/AUTHORIZATION

To : McAninch Arts Center at College of DuPage  
425 Fawell Boulevard  
Glen Ellyn, IL 60137

Attn: Molly Junokas  
Email: junokasm@cod.edu  
Phone: 630-942-3042

Invoice: AR2INV1328

P.O.: PO# 370124

Date: 07/01/2020

Federal ID: I3-3405268

Project: "Frida Kahlo: Timeless" Exhibition Catalogue

Re: Artists rights permission; per your request

**The grant of rights is contingent upon payment of fees. Please see last page for applicable laws.**

La máscara (de la locura)  
El pollito  
Sin esperanza  
El círculo  
Sin título  
Accident, September 17, 1926

Work by Diego Rivera  
The Nightmare of War and Dream of Peace

Artists Rights Society (ARS) is the exclusive authorized U.S. representative of the Banco de Mexico Diego Rivera Frida Kahlo Museums Trust, D.F., the sole owner of the copyrights in works of art by Frida Kahlo. ARS warrants that it is an authorized licensor of works of art by Frida Kahlo. Neither Artists Rights Society nor the Banco de México is responsible for any rights of personality or other ancillary rights which may be attendant to images of Frida Kahlo.

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1	[and Diego Rivera Work, Listed Above]	Monograph	\$	7339.50
	Frida Kahlo, Various Works, Listed Above			

**TOTAL AMOUNT: \$ 7339.50**

All invoices are due within 30 days of receipt. Please make checks payable to Artists Rights Society.

ARS also accepts major credit cards and electronic bank transfers.

JPMorgan Chase Bank, N.A., 525 Broadway, New York, NY 10012-4411, Bank Routing (ABA) No: 021000021, Swift Code: CHASUS33, Account No: 830608766.

Please contact Keri Oldham (P) 1.212.420.9160, koldham@arsny.com, or <https://www.arsny.com/payment> for credit card payments.

65 BLEECKER STREET, 12<sup>th</sup> FL., NEW YORK, NEW YORK 10012. TEL. (212) 420-9160 FAX. (212) 420-9286 WEB. WWW.ARSNY.COM

# LAW PERTAINING TO THE RIGHTS OF ARTISTS

## EXCLUSIVE RIGHTS OF COPYRIGHT OWNERS

"The owner of a copyright under this title has the exclusive rights to do and to authorize any of the following:

- (1) To reproduce the copyrighted works in copies or phonorecords.
- (2) To prepare derivative works based upon the copyrighted work."
- (3) The 1976 Copyright Act, S. 106 (Title 17 U.S.C: 90 Stat. 2541 et seq. Public Law 94-553)

## OWNERSHIP OF COPYRIGHT AS DISTINCT FROM OWNERSHIP OF MATERIAL OBJECT

"Ownership of a copyright, or of any of the exclusive rights under a copyright is distinct from ownership of any material object in which the work is embodied. Transfer of ownership of any material object, including the copy or phonorecord in which the work is first fixed, does not of itself convey any rights in the copyrighted work embodied in the object; nor, in the absence of an agreement, does transfer of ownership of a copyright or of any exclusive rights under a copyright convey property-rights in any material object."

-The 1976 Copyright Act, S. 202

"The copyright is distinct from the property in the material object copyrighted, and the sale or conveyance, by gift or otherwise, of the material object shall not of itself constitute a transfer of the copyright, nor shall the assignment of the copyright constitute a transfer of the title to the material object." -The 1909 Copyright Act, S.27

"Whenever a work of fine art is sold or otherwise transferred by or on behalf of the artist who created it, or his heirs or personal representatives, the right of reproduction thereof is reserved to the grantor...unless such right is sooner expressly transferred by an instrument, note or memorandum in writing signed by the owner of the rights..." -1966 New York General Business law, S.224, Art. 12-E

## COMMENTARY:

"Even if the museum owns a painting, bought at great expense, it does not hold the copyright in the painting unless it is specifically transferred by the artist. The museum may believe erroneously that ownership of the object includes ownership of the copyright and therefore the right to reproduce the work on a poster or postcard for sale in the museum shop. Many museums make this error...by failing to separate conceptually ownership of the copyright from ownership of the material object. But the museum, absent a specific grant, no more owns the copyright in the painting than if it were to acquire the copyright in a literary work by buying a paperback book at a bookstore.

- Copyright and the Art Museum, Berkowitz and Leafer, 8 Art & Law, 249 ff. (1984) Feldman, Weill & Biederman (Boston: Little Brown & Co.), 1986, vol.1 p. 132

## INFRINGEMENT

"Anyone who violates any of the exclusive rights of the copyright owner as provided by section 106...is an infringer of the copyright."

-The 1976 Copyright Act, S. 501(a)

- (a) Any person who infringes a copyright willfully and for purposes of commercial advantage or private financial gain shall be punished as provided in section 2319 of title 18.
- (b) When any person is convicted of any violation of subsection (a), the court in its judgment of conviction shall, in addition to the penalty therein prescribed, order the forfeiture and destruction or other disposition of all infringing copies or phonorecords and all implements, devices, or equipment used in the manufacture of such infringing copies or phonorecords." -The 1976 Copyright Act, S. 506, ss.(a) & (b)

## CASE LAW:

"Innocent intent, although relevant to questions of remedy, will not be a defense to actions for statutory copyright infringement."

-Beck v. Jewell La Salle Realty Co. 233 U.S. 191, 198 91930)

"Intention to infringe is not essential under the act." -Plymouth Music Co. v. Magnus Organ Corp., 456 F Supp 676 (S.D. N.Y. 1978)

## THE BERNE CONVENTION FOR THE PROTECTION OF LITERARY AND ARTISTIC WORKS

"The protection of this Convention shall apply to: (a) authors who are nationals of one of the countries of the Union, for their works, whether published or not;" -Article 3, S.1

"The enjoyment and the exercise of these rights shall not be subject to any formality.." -Article 5, S.2

"Authors of literary and artistic works protected by this Convention shall have the exclusive rights of authorizing the reproduction of these works, in any manner or form."

-Article 9, S.1

"This Convention shall apply to all works which, at the moment of its coming into force, have not yet fallen into the public domain in the country of origin through the expiry of the term of protection." -Article 18. S.1

"The Preceding provisions shall also apply in the case of new accessions to the Union..." -Article 18. S.4

## THE UNIVERSAL COPYRIGHT CONVENTION

"This convention shall not in any way affect the provisions of the Berne Convention for Protection of Literary and Artistic Works or membership in the Union created by that Convention."

-Article XVII, S. 1

"The Universal Copyright Convention shall not be applicable to the relationships among countries of the Berne Union insofar as it relates to the protection of works having as their country of origin, within the meaning of the Berne Convention, a country of the International Union created by the said Convention," -Appendix Declaration relating to Article XVII, S. (b)

## COPYRIGHT RESTORATION

-U.S. Copyright Code (Title 17) as amended by the Uruguay Rounds Agreement Act (URAA), S514, effective January 1, 1996.

104A. Copyright in restored works.

"(a) AUTOMATIC PROTECTION AND TERM.-

"(1) TERM.-

"(A) Copyright subsists in accordance with this section in restored works, and vests automatically on the date of restoration.

"(B) Any work in which copyright is restored under this section shall subsist for the remainder of the term of copyright that the work would have otherwise been granted in the United States if the work never entered the public domain in the United States.

"(b) OWNERSHIP OF RESTORED COPYRIGHT.- A restored work vests initially in the author or initial rightholder of the work as determined by the law of the source country of the work.

In the definitions section of the Act, the term *restored work* is defined in the following fashion:

"(6) the term 'restored work' means an original work of authorship that -

"(A) is protected under subsection (a);

"(B) is not in the public domain in its source country through expiration of the term of the protection.

"(C) is in the public domain in the United States due to-

"(1) noncompliance with formalities imposed at any time by United States copyright law, including failure of renewal, lack of proper notice, or failure to comply with any manufacturing requirements;:

## STATE MORAL RIGHTS LAW

A number of U.S. States, including California, New York, and Massachusetts have enacted artists moral rights laws. A provision of the New York Act follows.

"...No person other than the artist or a person acting with the artist's consent shall knowingly display in a place accessible to the public or publish a work of fine art...or a reproduction thereof in an altered, defaced, or mutilated or modified form..."

-New York Arts and Cultural Affairs Law S. 14.03 (McKinney Supp. 1986)