

Information:

Drawer: Accounts Payable - Invoices
Vendor Number: 1596706
Vendor Name: Artists Rights Society Inc
Invoice Number: AR2INV5574
Invoice Date: 9/3/2021
PO Number:
Check Number: E0086480
Check Amount: \$ 300.00
Check Date: 10/06/2021
Voucher Number: V0705775
Document Type: AP Invoice

Document Below

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: AR2INV5574
P.O.:
Date: 09/03/2021
Federal ID: I3-3405268

Project: "Frida Kahlo: Timeless" Virtual Tours
Re: Artists rights permission; per your request

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 estate of Frida Kahlo. Permission to reproduce the work listed below is contingent upon payment of the stated fee.

Granted: One-time, non-exclusive English language online display rights in the context of non-downloadable virtual Zoom tours offered via at <https://www.atthemac.org/> only, for the period of Sept 7, 2021 - Oct. 15, 2021. During the tours, up to 6 artworks will be featured and discussed in-depth.

Permission is granted for the following artworks:

1. Portrait of Alicia Galant, 1927
2. The Bus, 1929
3. Portrait of Virginia, 1929
4. The Hand, 1930
5. Nude of Ady Weber, 1930
6. Nude of Eva Frederick, 1931
7. Portrait of Lady Cristina Hastings, 1931
8. Portrait of Eva Frederick, 1931
9. Portrait of Luther Burbank, 1931
10. Henry Ford Hospital, 1932
11. Portrait in Red Cap, 1932
12. Untitled (Frida and the Miscarriage), 1932
13. A Few Small Nips, 1935
14. The Deceased Dimas (dead at age three), 1937
15. My Nurse and I, 1937
16. Portrait of Doña Rosita Morillo, 1944
17. Portrait of Engineer Eduardo Morillo Safa, 1944
18. The Broken Column, 1944
19. Flower of Life, 1944
20. Fantasia, 1944
21. Self-Portrait with Small Monkey, 1945

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- 22. The Mask (of Madness), 1945
- 23. The Chick, 1945
- 24. Without Hope, 1945
- 25. The Circle, 1954
- 26. Untitled (corazón, cactus y feto), S/D

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CREDIT: © 2021 Banco de México Diego Rivera Frida Kahlo Museums Trust, Mexico, D.F. / Artists Rights Society (ARS), New York

1	Museum website use	\$	300.00
	Frida Kahlo, Various Works, Listed Above		

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, 12th FL., NEW YORK, NEW YORK 10012. TEL. (212) 420-9160 FAX. (212) 420-9286 WEB. WWW.ARSNY.COM

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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.

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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 right holder 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)

"Junokas, Molly" <junokasm@cod.edu>

FW: [External] Re: McAninch Arts Center - Frida Kahlo Timeless

"Junokas, Molly" <junokasm@cod.edu>

Thu, Sep 9, 2021 at 05:47 PM GMT

CC:

BCC:

Hello,

Please see attached for an invoice for the MAC. Please route to Ellen McGowan for processing in Chrome River.

Thank you,

Molly Junokas

McAninch Arts Center, College of DuPage

630-942-3042 | junokasm@cod.edu

From: M. Fernanda Pessaro <MFPessaro@arsny.com>

Sent: Friday, September 3, 2021 12:50 PM

To: Junokas, Molly <junokasm@cod.edu>

Subject: Re: [External] Re: McAninch Arts Center - Frida Kahlo Timeless

Hi Molly,

Great, thanks for confirming. Attached please find the invoice.

Best,

Fernanda

M. Fernanda Pessaro

Managing Director, Museums and Galleries Licensing

ARTISTS RIGHTS SOCIETY | 65 BLEECKER ST, 12th FL | NEW YORK, NY 10012

P: 1.212.420.9160. F: 1.212.420.9286 E: mfpessaro@arsny.com

arsny.com

From: Junokas, Molly <junokasm@cod.edu>

Sent: Thursday, September 2, 2021 12:07 PM

To: M. Fernanda Pessaro <MFPessaro@arsny.com>

Subject: RE: [External] Re: McAninch Arts Center - Frida Kahlo Timeless

Hi Fernanda,

Yes, we would like to proceed! Please issue an invoice and send to me when you get a moment.

Thank you very much!

Molly Junokas

McAninch Arts Center, College of DuPage

630-942-3042 | junokasm@cod.edu

From: M. Fernanda Pessaro <MFPessaro@arsny.com>
Sent: Wednesday, September 1, 2021 4:42 PM
To: Junokas, Molly <junokasm@cod.edu>
Subject: [External] Re: McAninch Arts Center - Frida Kahlo Timeless

CAUTION: This email originated from outside of COD's system. Do not click links, open attachments, or respond with sensitive information unless you recognize the sender and know the content is safe.

Dear Molly,

Apologies for the delay! Yes, we can extend permission through Oct 15 for an additional fee of \$300. Please let me know if you would like to proceed.

Best,

Fernanda

M. Fernanda Pessaro

Managing Director, Museums and Galleries Licensing

ARTISTS RIGHTS SOCIETY | 65 BLEECKER ST, 12th FL | NEW YORK, NY 10012

P: 1.212.420.9160. F: 1.212.420.9286 E: mfpe@arsny.com

arsny.com

1 attachment

invoice_AR2INV5574.pdf