

SAMPLE LICENSING AGREEMENT

Artist Licensing Agreement for the Use of Art for the New Mexico Conference on Aging

This Artist Licensing Agreement (the “AGREEMENT”) is entered into between _____ (“ARTIST”) and the Aging & Long-Term Services Department (“DEPARTMENT” OR “ALTSD”). The AGREEMENT is effective for twelve (12) months from the date it is signed by both Parties (collectively the “PARTIES”).

Scope of this Agreement. This Agreement applies to any image, graphics, digital assets, or digital images created or taken by Artist of their work “ _____,” and delivered to the Department (collectively known as “IMAGES”) for use for the New Mexico Conference on Aging. This Agreement governs the relationship between the Parties and no communication or other exchange shall modify the terms of this Agreement unless agreed to in writing.

Rights: All Images and rights relating to them, including copyright and ownership rights in the media in which the Images are stored, remain the sole and exclusive property of the Artist. This license provides the Department with the limited right to reproduce, publicly display, and distribute the Images only for the agreed upon terms as set forth in this Agreement and signed by both Parties. Images used for any purpose not directly related to these terms must be with the express permission of Artist. Images may contain copyright management information (CMI) at the discretion of the Artist in the form of either 1) a copyright notice “©” or 2) other copyright and ownership information embedded in the metadata or elsewhere unless otherwise agreed to by the Parties. Removing or altering such information is prohibited.

The Artist grants the Department the rights to edit, abridge, or condense or add to the Images; to illustrate the Images with such photographs and art as the Department may deem appropriate; to determine the headlines, subheads, and blurbs for the Images; and to determine the captions for any illustrations accompanying the Images.

Relationship of the Parties: The Parties agree that Artist is an independent contractor and that neither Artist nor Artist’s employees or contract personnel are, or shall be deemed to be, employees of the Department. No agency, partnership, joint venture, or employee-employer relationship is intended or created by this Agreement. Neither party is authorized to act as agent or bind the other party except as expressly stated in this Agreement. Artist and the Images or any other deliverables prepared by Artist shall not be deemed a work for hire as defined under Copyright Law. All rights granted to Department are contractual in nature and are expressly defined by this Agreement.

Creation and Intellectual Property: The manner and method of creating any Image is solely at the discretion of Artist, and the Department has no right to control Artist’s manner and method of performance under this Agreement. Artist will use their best efforts to: (a) ensure that the Images conform to Department’s specifications; and (b) submit all Images to Department in publishable quality, on or before the applicable deadlines.

The Artist warrants that they are the sole owner of the Images, have full power and authority to copyright them and make this Agreement. The Artist warrants that the Images do not infringe on any copyright, violate any property rights, or contain any scandalous, libelous, or unlawful matter.

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Delivery: Artist may select delivery of photographs in JPEG, TIFF, PNG, or other standard formats at a resolution that Artist determines will be suitable for the Images as licensed. It is the Department's responsibility to verify that the Images are suitable for reproduction and that if the Images are not deemed suitable, to notify the Artist within thirty (30) business days of receipt.

Fees and Invoices: The Department shall pay the Artist a flat fee of \$1000 for use of her Images. Artist must submit an invoice for the Images. Invoices may not be received any later than July 15, 2024. If the Department finds that the Images are not acceptable then within thirty (30) days after the date of receipt of written notice from the Artist that payment is requested, the Department shall provide the Artist with a letter of exception explaining the defect or objection to the services and outlining steps the Artist may take to provide remedial action. Upon certification by the Department that the services have been received and accepted, then payment shall be tendered to the Artist within thirty days after the date of acceptance. If payment is made by mail, then the payment shall be deemed tendered on the date it is postmarked. However, the Department shall not incur late charges, interest, or penalties for failure to make payment within the time specified herein.

No Exclusivity: This Agreement does not create an exclusive relationship between the Parties. ALTSD is free to engage others to perform services of the same or similar nature to those provided by Artist, and Artist shall be entitled to offer and provide services to others, solicit other clients, and otherwise advertise the services offered by Artist.

Transfer and Assignment: ALTSD may not assign or transfer this agreement, or any rights granted under it. No amendment or waiver of any terms is binding unless in writing and signed by the Parties.

Indemnification: The Artist shall defend, indemnify, and hold harmless the Department and the State of New Mexico from all actions, proceeding, claims, demands, costs, damages, attorneys' fees and all other liabilities and expenses of any kind from any source which may arise out of the performance of this Agreement, caused by the negligent act or failure to act of the Artist, its officers, employees, servants, subcontractors or agents, or if caused by the actions of any client of the Artist resulting in injury or damage to persons or property during the time when the Artist or any officer, agent, employee, servant or subcontractor thereof has or is performing services pursuant to this Agreement. The Artist assumes full and complete responsibility and liability for the content of the Images and shall indemnify and hold harmless the Department and the State of New Mexico from and against all demands, claims, expenses, or liability related to the Images or related to any allegation that the Images infringe on the copyright or intellectual property rights of a third party.

If any action, suit or proceeding related to the services performed by the Artist or any officer, agent, employee, servant or subcontractor under this Agreement is brought against the Artist, then the Artist shall, as soon as practicable, but no later than two (2) days after it receives notice thereof, notify the legal counsel of the Department and the Risk Management Division of the New Mexico General Services Department by certified mail.

General Law/Arbitration: This Agreement sets forth the entire understanding of the Parties, and supersedes all prior agreements between the Parties. This Agreement shall be governed, interpreted, and enforced in accordance with the laws of the State of New Mexico. Any claim or litigation arising out of this Agreement, or its performance, may be commenced only in courts physically located in New Mexico, and the Parties hereby consent to the personal jurisdiction of such courts. In the event of any litigation arising out of or relating to this Agreement, the prevailing

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party shall be entitled to recover its attorneys' fees incurred in the litigation. If Parties are unable to resolve the dispute, either party may request mediation or binding arbitration in a forum mutually agreed to by the Parties.

Severability: If one or more of the provisions in the Agreement is found invalid, illegal, or unenforceable in any respect, the validity and enforceability of the remaining provisions shall not be affected. Any such provisions will be revised as required to make them enforceable.

Waiver: No action of either party, other than in writing agreed to by the Parties, may be construed to waive any provision of this Agreement and a single or partial exercise by either party of any such action will not preclude further exercise of other rights or remedies in this Agreement.

IN WITNESS WHEREOF, the Parties have caused this Artist Licensing Agreement to be duly executed as of the dates written below.

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