

Conditions of Use

1. All requests to reproduce photographs from the Heard Museum's holdings must be submitted on this application. The applicant agrees to abide by all terms, conditions and provisions of this agreement.

Permission for reproduction is granted only when this application is countersigned by a representative of the museum. Permission for reproduction is limited to the applicant and is non-transferable.

Permission for reproduction is granted only for the expressed purpose described in this application. This permission is non-exclusive; the museum reserves the right to reproduce the image and to allow others to reproduce the image.

Any subsequent use (including subsequent editions, paperback editions, foreign language editions, etc.) constitutes reuse and must be applied for in writing to the museum. Any change in use from that stated on the application (e.g., increased size of edition, change in market) requires permission of the museum. An additional fee may be charged for reuse or change in use.

In the event the applicant engages in unauthorized reproduction of the materials, the applicant agrees to pay the museum a sum equal to three times the normal commercial use fee, not as a penalty but as liquidated damages agreed upon due to the difficulty in assessing actual damages incurred; the museum may in the event of unauthorized reproduction require surrender of all materials containing such unauthorized reproductions, and the applicant agrees that such materials shall be immediately surrendered upon receipt of request from the museum.

The museum reserves the right to refuse reproduction of its holdings if it feels fulfillment of that order would be in violation of copyright law or other law. The museum reserves the right to refuse reproduction of its holdings and to impose such conditions as it may deem advisable in its sole and absolute discretion to be in the best interests of the museum.

2. The Heard Museum reserves the right to refuse any order for reproductions which it feels might damage the original. The decision to allow reproduction of the museum's holdings rests solely with the curator responsible for the material. The museum will not accept orders for nor allow photocopying (i.e., Xeroxing) or scanning of original photographs.

3. In addition to the permission of the Heard Museum, additional permissions may be required. Those permissions may include, but are not limited to:

Copyright: In cases of works by living artists or and/or subject to the 1976 Copyright Law or the 1991 Visual Artists Rights Act, written permission must be secured by the applicant from the artist, his/her agent, or the copyright owner and provided to museum before a photograph of the artwork will be released.

WARNING CONCERNING COPYRIGHT RESTRICTIONS

The copyright law of the United States (Title 17, USC) governs the making of photocopies or other reproductions of copyrighted material. Under certain conditions specified in the law, archives and libraries are authorized to furnish a photocopy or reproduction. One of these specified conditions is that the photocopy or reproduction is not to be "used for any purpose other than private study, scholarship or research." If a user makes a request for, or later uses, a photocopy or reproduction for purposes in excess of "fair use," that user may be liable for copyright infringement. This institution reserves the right to refuse a copying order if, in its judgment, fulfillment of the order would involve violation of copyright law.

Privacy: An individual depicted in a reproduction has privacy rights as outlined in Title 45 CFR §46 ("Protection of Human Subjects"). The Heard Museum reserves the right to require a release from individuals whose privacy may be violated by the publication of this image. The museum extends the rights of privacy to include ceremonial objects and rites of Native American and requires the permission of the tribe's cultural office before releasing reproductions. The museum requires the permission of a tribe's cultural office if images of that tribe will be used in a religious context.

Owner of original: In instances where the museum holds only a reproduction, the written permission of the owner of the original is required. It is the responsibility of the applicant to obtain permission to publish reproductions from the owner of copyright (the institution, the creator of the record, the author, or his/her transferees, heirs, legatees, or literary executors).

The museum will aid the applicant in contacting pertinent individuals by providing addresses, when available. However, the museum does not warrant the accuracy of that information and shall not be responsible for any inaccurate information.

In instances where the individual or organization who may grant permission cannot be contacted, the museum may consider granting permission for reproduction based on the applicant's written evidence of a good faith effort to obtain contact with the appropriate individual. However, the museum assumes no responsibility for infraction of

copyright laws, invasion of privacy, or any other improper or illegal use that may arise from reproduction of any image. To the extent permitted by law, in all instances the applicant agrees to hold the museum and its agents harmless against any and all claims arising or resulting from the use of this image and shall indemnify the museum and its agents for any and all costs and damages arising or resulting from any such unauthorized use.

4. All reproductions must cite "Heard Museum, Phoenix, Arizona" in a caption or credit. The museum may require that the artist, artist's tribal affiliation, title of the work, dimensions, or catalog number appear in the caption or credit as well.

Credits should appear in close proximity to the image or in a special section devoted to credits. However, reproductions distributed electronically must contain the credit or caption as part of the image. When permission is granted to disseminate reproductions electronically, the museum reserves the right to require an electronic watermark or other identifying code within the scanned file.

Payment of a commercial use fee does not exempt the user from the credit line requirement. Failure to include a credit line or electronic watermark, or inaccurate captions or credits shall require the applicant to pay \$100 per image as liquidated damages and not as a penalty in view of the difficulty of assessing actual damages for this breach.

5. Except as noted below, all reproductions provided by the Heard Museum remain the property of the museum and must be returned upon completion of the project. Any separations, lithos, files containing electronic copies, or other intermediary images used in production of the final product authorized by this agreement shall be returned to the museum upon completion.

In addition to the rental fee, a charge equal to the replacement costs will be assessed for any materials not returned within 10 weeks or in damaged condition.

Applicants may be granted permission to retain reproductions or other imagery supplied by the museum for personal or educational use. If such permission is granted (see Section 9 of this form), reproductions may not be copied, scanned, exhibited, resold, or used for any other purpose than that specified in this application. Copies shall not be deposited in another library, archive, or repository without the permission of the museum.

6. Unless approved in advance by the Heard Museum, each image must be reproduced unaltered and in its entirety; the image must not be cropped, overprinted, printed on color stock, or bleed off the page.

The museum reserves the right to examine proofs and captions for accuracy and sensitivity prior to publication with the right to revise if necessary. The museum reserves the right to refuse any request and to impose such conditions as it may deem advisable in the best interests of the museum.

If permission is granted to distribute an electronic copy of an image, the distributed copy shall not exceed a display or print resolution of greater than VGA screen resolution (72 dots per inch or 640x480 pixels).

7. Prepayment of all fees, including use fees, is required before permission is granted. Default in payment shall immediately revoke permission.

If the size of edition or number of editions exceeds the terms specified in this application, the applicant shall immediately pay the difference in use fees. If payment is not received within thirty days, the applicant agrees to pay a use fee equal to twice the originally quoted use fee.

8. The applicant agrees to send the Heard Museum one copy, best edition, of the work containing the reproduction at no charge. All expenses for shipping and handling are to be borne by the applicant.

9. Additional conditions or exceptions to the above requirements:

Endorsements:

By signing this application, I accept personally and on behalf of any organization I represent the conditions set forth above:

When signed by an authorized agent of the Heard Museum, this form constitutes permission for reproduction as outlined in this application.

Signed: _____

Signed: _____

Dated: _____

Dated: _____