



# Terms of Services Agreement

Welcome to [www.GettheGallery.com](http://www.GettheGallery.com) (the “Site”). By accessing or using the Site or any of our services (“Services”), you agree to be bound by all of the terms and conditions in, and linked to, these Terms of Service (these “Terms”). You may access the Site and use the Services only if you are able to form a binding legal contract with Get the Gallery, LLC., a Colorado company, and its subsidiaries (“Get the Gallery,” “us” or “we”). For example, in most jurisdictions you must be at least 18 years old to form a binding legal contract.

The Site and the Services are controlled and operated by Get the Gallery from the United States of America. If you use the Site or the Services from a jurisdiction outside the United States, it is your responsibility to comply with applicable laws in relation to your use of the Site or the Services. Get the Gallery makes no warranty or representation that access to or use of the Site or the Services will be compliant with applicable laws in jurisdictions outside the United States.

IF YOU DO NOT WISH TO BE BOUND BY THESE TERMS, YOU MAY NOT ACCESS THE SITE OR USE THE SERVICES.

If you have any questions or concerns regarding this statement, email [info@GettheGallery.com](mailto:info@GettheGallery.com)

## 1. Privacy Policy

Use of our Site and Services is subject to our Privacy Policy, refer to the Policy published on our site. Please review our Privacy Policy to understand our practices as to the collection and use of user information. By visiting the Site or using the Services, you signify your agreement with this Privacy Policy.

## 2. Services and Accounts

- a. **Description of the Services.** Through the Site, Get the Gallery provides users with access to sales and rental of fine art (the “Products”). You are responsible for obtaining access to the Site, and that access may involve third-party fees (such as Internet service provider or airtime charges). In addition, you must provide and are responsible for all equipment necessary to access the Site.
- b. **Membership Eligibility.** You may not access the Site or use the Service if you (i) are a minor under the age of 18; (ii) have been suspended or removed from the Site or Services by Get the Gallery for any reason; (iii) have more than one active account at any given time; or (iv) sell, trade, or otherwise transfer your Get the Gallery account to another party, or attempt to do any of the foregoing.
- c. **Your Account.** In order to take advantage of the Services, you may need to register an account with Get the Gallery. You agree to provide true, accurate, current and complete information about yourself as prompted by the Site’s registration form. Get the Gallery has the right to refuse to form an account, terminate your account, modify any

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account-related content or take any other action with regard to your account, in its sole discretion, for any reason, including without limitation if you provide any information that is untrue, inaccurate, not current or incomplete (or becomes untrue, inaccurate, not current or incomplete), or Get the Gallery has reasonable grounds to suspect that any information you provide is untrue, inaccurate, not current or incomplete, during registration or any time thereafter. If you use the Site, you are responsible for maintaining the confidentiality of your account and password, and for restricting access to your account. You agree to accept responsibility for all activities that occur under your account or password. Because of this, we strongly recommend that you exit from your account at the end of each session. You agree to notify Get the Gallery immediately of any unauthorized use of your account or any other breach of security.

- d. **Access To Password Protected/Secure Areas.** Access to and use of password protected and/or secure areas of the Site is restricted to authorized users only. Unauthorized individuals attempting to access these areas of the Site may be subject to prosecution.

### 3. License, Restrictions and Reservation of Rights

- a. **License to You.** Get the Gallery grants you a limited, revocable, non-transferable, non-sublicenseable and non-exclusive license to access and use the Site and the Services for personal use only and solely in accordance with these Terms. The license described in this Section 3(a) automatically terminates upon your breach of any of these Terms.
- b. **Restrictions.** You are expressly prohibited under these Terms from doing any of the following:
  - *Downloading or copying any account information for the benefit of any third party;*
  - *Caching any information, data, text, software, graphics, video, messages, or other material ("Content") available on or through the Site;*
  - *Linking to the Site using any HTML techniques that display the Site within a frame, partial window, pop-up, pop-under, or any other non-standard linking method;*
  - *Uploading, posting, or transmitting any Content that you do not have a right to make available;*
  - *Impersonating other people or providing false information, during the account registration process or at any other time;*
  - *Uploading, posting, or transmitting any material that contains software viruses or any other computer code, files or programs designed to interrupt, destroy, damage or limit the functionality of any computer software or hardware or telecommunications equipment;*
  - *Making any automated use of the system or taking any action that we, in our sole discretion, deem may impose or does impose an unreasonable or disproportionately large load on our servers or network infrastructure;*
  - *Using any data*

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*mining, robots, or similar data gathering and extraction tools; • Bypassing any measures used by Get the Gallery to prevent or restrict access to the Site. Any unauthorized use by you of the Site or the Services shall automatically terminate the license described in Section 3(a).*

- c. **Reservation of Rights.** You acknowledge and agree that we and our licensors retain ownership of all intellectual property rights of any kind related to the Site and the Services, including applicable copyrights, trademarks, and other proprietary rights. Unless otherwise specified in these Terms and except for third-party trademarks and Content, all Content appearing on the Site and through the Services, including documents, services, site design, text, graphics, logos, images and icons, as well as the arrangement thereof, are the sole property of Get the Gallery. You agree that the Site and Services contain proprietary content, information and material that is protected by applicable intellectual property and other laws, including but not limited to copyright, and that you will not use such proprietary content, information, or materials in any way whatsoever except for permitted uses of the Services. “Get the Gallery” and other Get the Gallery graphics, logos, designs, page headers, button icons, scripts and service names are the trademarks or trade dress of Get the Gallery in the United States and other countries. You may not use Get the Gallery's trademarks and trade dress, including as part of trademarks and/or as part of domain names, in connection with any product or service in any manner that is likely to cause confusion or create the impression that Get the Gallery endorses any product or service. You may not reproduce or use Get the Gallery's trademarks or trade dress without our prior written permission. Other product and company names that are mentioned on the Site or Services may be trademarks of their respective owners. We reserve all rights that are not expressly granted to you under these Terms.

#### 4. Products and Orders

- a. **Orders.** These Terms, together with any additional terms on the Site, shall govern any order you make through the Site or Services (including by phone) to purchase Products (an “Order”). The Rental Terms, please refer to the Rental Agreement on our site. (“Rental Terms”), govern any order you make through the Site or Services (including by phone) to rent Products. Get the Gallery currently only ships to addresses in the United States. Your placement of an Order through our Site is an offer to purchase the Product(s) ordered and we may decline to accept your Order or any part of your Order for any reason. No Order will be considered accepted by Get the Gallery until your payment has been processed and the Product(s) has been shipped by Get the Gallery. If we decline to accept your Order, we will attempt to notify you using the email address

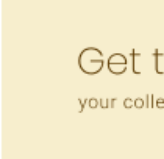
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you provided. Any estimated delivery date provided by Get the Gallery is based on Product availability and payment processing time, and is an estimate only and not a guarantee that any Product will be delivered on such date. Title to and risk of loss to any Product passes to you when Get the Gallery provides the Product(s) to a common carrier or other delivery service.

- b. **Payment.** To pay for an Order, you will need to provide Get the Gallery with the information necessary to process an Order from you, including your shipping address and the billing information requested on the Site to pay for such order. You may pay for your order via credit card or any other manner then available on the Site. By submitting your payment information to us, you authorize us to charge the applicable payment method at our convenience but within thirty (30) days of credit card authorization. You represent that you will not use any form of payment unless you have all necessary authorization to do so.
- c. **Pricing and Products.** We make efforts to display our products and their colors as accurately as possible. Having said that, the displayed colors of the products will depend upon your monitor and we cannot guarantee that your monitor will accurately portray the actual colors of the Products. Products displayed may be unavailable, and prices are subject to change. We cannot confirm the price or availability of an item until you place an Order. Despite our best efforts, a small number of the items on our Site may be mispriced. We are not responsible for typographical errors regarding price or any other matter. All purchase prices (gallery prices) do not include shipping and handling or sales taxes, if applicable, which will be added to your total purchase price. Upon outright purchase of original artwork from GettheGallery.com, the user shall be responsible for the payment of any shipping and handling charges and state and local sales or use taxes that may apply to your Order.

### 6. Disclaimer of Warranty

ALL CONTENT, PRODUCTS, AND SERVICES ON THE SITE ARE PROVIDED TO YOU "AS IS" WITHOUT WARRANTY OF ANY KIND. WITHOUT LIMITING THE FOREGOING, AND TO THE EXTENT PERMITTED BY APPLICABLE LAW, GET THE GALLERY EXPRESSLY DISCLAIMS ALL WARRANTIES, WHETHER EXPRESS, IMPLIED OR STATUTORY, INCLUDING WITHOUT LIMITATION ANY WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE, ACCURACY AND NON-INFRINGEMENT. WITHOUT LIMITING THE FOREGOING, AND TO THE EXTENT PERMITTED BY APPLICABLE LAW, GET THE GALLERY MAKES NO WARRANTY OR REPRESENTATION THAT ACCESS TO OR OPERATION OF THE SITE OR THE SERVICE WILL BE UNINTERRUPTED OR ERROR FREE OR THAT THE SERVICES OR ANY SOFTWARE WILL OPERATE ON THE TYPE OF DEVICE OWNED BY YOU. YOU ASSUME FULL RESPONSIBILITY AND RISK OF LOSS



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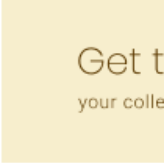
RESULTING FROM YOUR USE OF INFORMATION, CONTENT OR OTHER MATERIAL OBTAINED FROM THE SITE OR THROUGH THE SERVICE.

## 7. Limitation of Liability and Release

YOU ACKNOWLEDGE AND AGREE THAT WE ARE ONLY WILLING TO SELL OR RENT THE PRODUCTS AND PROVIDE ACCESS TO THE SITE AND SERVICES IF YOU AGREE TO CERTAIN LIMITATIONS OF OUR LIABILITY TO YOU AND TO THIRD PARTIES. TO THE EXTENT PERMITTED UNDER APPLICABLE LAW, IN NO EVENT WILL WE OR OUR OFFICERS, EMPLOYEES, DIRECTORS, PARENTS, SUBSIDIARIES, AFFILIATES, AGENTS OR LICENSORS BE LIABLE FOR ANY INDIRECT, INCIDENTAL, SPECIAL, CONSEQUENTIAL OR EXEMPLARY DAMAGES, INCLUDING BUT NOT LIMITED TO, DAMAGES FOR LOSS OF REVENUES, PROFITS, GOODWILL, USE, DATA, LOST OPPORTUNITIES, OR BUSINESS INTERRUPTIONS OR OTHER INTANGIBLE LOSSES (EVEN IF SUCH PARTIES WERE ADVISED OF, KNEW OF OR SHOULD HAVE KNOWN OF THE POSSIBILITY OF SUCH DAMAGES, AND NOTWITHSTANDING THE FAILURE OF ESSENTIAL PURPOSE OF ANY LIMITED REMEDY), ARISING OUT OF OR RELATED TO YOUR USE OF OR ACCESS TO, OR YOUR INABILITY TO USE OR TO ACCESS, THE SITE OR THE SERVICES, REGARDLESS OF WHETHER SUCH DAMAGES ARE BASED ON CONTRACT, TORT (INCLUDING NEGLIGENCE AND STRICT LIABILITY), WARRANTY, STATUTE OR OTHERWISE. IF YOU ARE DISSATISFIED WITH ANY PORTION OF THIS SITE OR THE SERVICES, YOUR SOLE AND EXCLUSIVE REMEDY IS TO DISCONTINUE USE OF THE SITE AND THE SERVICES. OUR TOTAL LIABILITY TO YOU FOR ALL CLAIMS ARISING FROM OR RELATED TO (A) ANY PRODUCT, OR (B) THE SITE OR THE SERVICES IS LIMITED, IN THE AGGREGATE, TO, IN THE CASE OF (A), THE TOTAL AMOUNT OF FEES YOU PAID GET THE GALLERY FOR SUCH PRODUCT, AND IN THE CASE OF (B), ONE HUNDRED DOLLARS (\$100.00).

Some jurisdictions do not allow the exclusion of certain warranties or the limitation or exclusion of liability for incidental or consequential damages. Accordingly, some of the above limitations and disclaimers may not apply to you. To the extent that we may not, as a matter of applicable law, disclaim any implied warranty or limit liabilities, the scope and duration of such warranty and the extent of our liability will be the minimum permitted under such applicable law.

Without limiting the foregoing, under no circumstances will we or our licensors be held liable for any delay or failure in performance resulting directly or indirectly from acts of nature, forces, or causes beyond our reasonable control, including, without limitation, Internet failures, computer equipment failures, telecommunication equipment failures, other equipment failures, electrical power failures, strikes, labor disputes, riots, insurrections, civil disturbances, shortages of labor or materials, fires, floods, storms, explosions, acts of God, war, governmental actions, orders of domestic or foreign courts or tribunals, or non-performance of third parties. Some states do not



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allow exclusion of implied warranties, so these exclusions may not apply in individual cases. You may have additional rights that vary from state to state. To the extent that we may not, as a matter of applicable law, disclaim any implied warranty, the scope and duration of such warranty will be the minimum permitted under such applicable law.

## 8. Release

If you have a dispute with one or more users, merchants or any other third party resulting from or arising out of or in connection with your use of the Services or Site, you release us (and our officers, directors, agents, subsidiaries, licensors, affiliates and employees) from claims, demands and damages (actual and consequential) of every kind and nature, known and unknown, arising out of or in any way connected with such disputes. If you are a California resident, you waive California Civil Code §1542, which says: “A general release does not extend to claims which the creditor does not know or suspect to exist in his favor at the time of executing the release, which if known by him must have materially affected his settlement with the debtor.”

## 9. Indemnification

You will indemnify, defend, and hold harmless Get the Gallery, its affiliates, officers, directors, shareholders, employees, contractors, licensors, licensees, agents, and representatives (the “Covered Entities”) against all liability, claims, costs, damages, settlements, and expenses (including interest, penalties, attorney fees and expert witness fees) (“Liabilities”) incurred by any Covered Entity in any way arising out of or relating to the Site, the Services or these Terms. This includes but is not limited to Liabilities arising out of or relating to your use of the Site or any Services, any use of your account by you or anyone else, any Content you receive or post through the Site or Services, claims of intellectual property or other third-party rights infringement, and taxes. Get the Gallery reserves the right, at your expense, to assume the exclusive defense and control of any matter otherwise subject to indemnification by you, and in such case, you agree to cooperate with our defense of such claim.

## 10. Electronic Communications

- A. **Legal Notice.** Communications made through the Site will not constitute legal notice to Get the Gallery or any of its affiliates, officers, employees, agents or representatives in any situation where notice to Get the Gallery is required by contract or any law or regulation.
- B. **Electronic Consent.** You consent to receive communications electronically from Get the Gallery and its Site Affiliates (as defined in the Privacy Policy) at the email address that you have provided to us. We may communicate with you by email or by posting

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notices on the Site. You agree that all agreements, notices, disclosures and other communications that are provided to you electronically satisfy any legal requirement that such communications be in writing.

- C. **Site-Provided Email and Postings.** The Site may provide users with the ability to send email messages to other users and non-users and to post messages on the Site. Get the Gallery is under no obligation to review any messages, information or content posted on the Site by users ("Postings") and assumes no responsibility or liability relating to any such Postings. Notwithstanding the above, Get the Gallery may from time to time monitor the Postings on the Site and may edit, modify, remove or decline to accept any email or Posting in Get the Gallery's sole discretion. You understand and agree not to use any functionality provided by the Site to post content or initiate communications that contain any of the following:

*• Anything that violates these Terms or applicable law; • Any material of any kind that is unlawful, harmful, threatening, abusive, harassing, defamatory, vulgar, obscene, profane, hateful, racially or ethnically objectionable, or that Get the Gallery deems, in its sole discretion, to be objectionable, including, but not limited to, any material which encourages conduct that would constitute a criminal offense, give rise to civil liability or otherwise violate any applicable local, state, national or international law; • Advertisements or solicitations of any kind; • Personal information, such as phone numbers, social security numbers, account numbers, addresses or employer references of any person; • Messages that offer unauthorized downloads of any copyrighted or private information; • Multiple messages by the same user restating the same point in different parts of the Site; • Chain letters of any kind; • Identical or substantially similar messages sent to multiple recipients advertising any product or service, expressing a political or similar message, or any other type of unsolicited commercial message. This prohibition includes, but is not limited to, the following activities: (a) using invitations to the Site or the Service to send messages to people who don't know you or who are unlikely to recognize you as a known contact; (b) using the Site to connect to people who don't know you and then sending unsolicited promotional messages to those direct connections without their permission; or (c) sending messages to distribution lists, newsgroup aliases, or group aliases.*

### 11. Links

The Site or third parties may provide links to other websites or resources. Because Get the Gallery has no control over such sites and resources, you acknowledge and agree that Get the Gallery is not responsible for the availability of such external sites or resources, and does not endorse and is not responsible or liable for any content, advertising, products or other materials on or available from such sites or resources. You further acknowledge and agree that Get the



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Gallery shall not be responsible or liable, directly or indirectly, for any damage or loss caused or alleged to be caused by or in connection with use of or reliance on any such content, goods or services available on or through any such site or resource.

## 12. Social Networking Sites

You may choose to authenticate your identity, for example during the account registration process, using your profile or account (“Profile”) on a social networking site (“SNS”). By choosing to do so, you hereby authorize us to act on your behalf to access your Profile and interact with such SNS solely for the purposes of authenticating your identity in accordance with the terms of that SNS and the privacy settings you establish at such SNS. We will not collect your username, password or other login credentials through this process; we will only store the unique authorization code provided to us by the SNS for authentication purposes.

You may revoke our access to any SNS at any time by amending the appropriate settings on your Profile, if permitted by such SNS’s terms and settings. You acknowledge that we do not control the privacy settings or other terms that any SNS makes available to its users, and cannot guarantee that our Site and Services will always include a connection to any such SNS.

## 13. Modification and Notification of Changes

Get the Gallery reserves the right to make changes to the Site, the Service, these Terms, the Privacy Policy and any related policies and agreements at any time. We will notify you of any changes to any of the foregoing by posting the modified document to the Site or as otherwise specified in the applicable document. We may also attempt to notify you via email at the email address you have provided to us, at our sole discretion. Any changes to these Terms, the Privacy Policy and any related policies and agreements will apply to all current and past users of the Site and Services. We suggest that you check the Site, these Terms, and all other policies periodically for updates.

By continuing to use the Site, you agree that you accept the then-current Terms and Privacy Policy.

## 14. Trademarks

The trademarks, logos and service marks (“Marks”) displayed on the Site are the property of Get the Gallery and third parties. Users are prohibited from using any Marks for any purpose including, without limitation, use as metatags on other websites without the written permission of Get the Gallery or the third party which owns the Marks, as applicable. All Content on or available through the Site or the Services is protected by copyright. Aside from any explicit grants in these Terms, nothing in these Terms grants you any license to any Marks or Content.

Procedure for Claims of Intellectual Property Infringement



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- A. **Termination of Repeat Infringer Accounts.** Get the Gallery respects the intellectual property rights of others and requests that its users do the same. Pursuant to 17 U.S.C. 512(i) of the United States Copyright Act, we have adopted and implemented a policy that provides for the termination in appropriate circumstances of users of the Site or Services who are repeat infringers. Get the Gallery may terminate access for users who are found repeatedly to provide or post protected third party content without necessary rights and permissions.
- B. **DMCA Take-Down Notices.** If you are a copyright owner or an agent thereof and believe, in good faith, that any materials on the Site or Services infringe upon your copyrights, you may submit a notification pursuant to the Digital Millennium Copyright Act (see 17 U.S.C 512) (“DMCA”) by sending the following information in writing to Get the Gallery’s designated copyright agent at Get the Gallery, LLC., 1515 Wynkoop St, Suite 360, Denver CO 80202 including: • The date of your notification; • A physical or electronic signature of a person authorized to act on behalf of the owner of an exclusive right that is allegedly infringed; • A description of the copyrighted work claimed to have been infringed, or, if multiple copyrighted works at a single online site are covered by a single notification, a representative list of such works at that site; • A description of the material that is claimed to be infringing or to be the subject of infringing activity and information sufficient to enable us to locate such work; • Information reasonably sufficient to permit us to contact you, such as an address, telephone number, and/or email address; • A statement that you have a good faith belief that use of the material in the manner complained of is not authorized by the copyright owner, its agent, or the law; and • A statement that the information in the notification is accurate, and under penalty of perjury, that you are authorized to act on behalf of the owner of an exclusive right that is allegedly infringed.
- C. **Counter-Notices.** If you believe that your Content that has been removed from the Site or Services is not infringing, or that you have the authorization from the copyright owner, the copyright owner's agent, or pursuant to the law, to post and use the content in your Content, you may send a counter-notice containing the following information to our copyright agent using the contact information set forth above:
- *Your physical or electronic signature; • A description of the content that has been removed and the location at which the content appeared before it was removed; • A statement that you have a good faith belief that the content was removed as a result of mistake or a misidentification of the content; and • Your name, address, telephone number, and email address, a statement that you consent to the jurisdiction of the federal court in the State of Colorado and a statement that you will accept service of process from the person who provided notification of the alleged infringement. If a counter-notice is received by Get the Gallery’s copyright agent, Get the Gallery may*

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*send a copy of the counter-notice to the original complaining party informing such person that it may reinstate the removed content in 10 business days. Unless the copyright owner files an action seeking a court order against the content provider or user, the removed content may (in Get the Gallery's sole discretion) be reinstated on the Site in 10 to 14 business days or more after receipt of the counter-notice.*

### 15. Miscellaneous

- A. **Governing Law.** These Terms and your use of the Site and the Services are governed by the federal laws of the United States and the laws of the State of Colorado, excluding its choice of laws principles. The rights and obligations of the parties under these Terms shall not be governed by the provisions of the 1980 United Nations Convention on Contracts for the International Sales of Goods, as amended. You agree that, by entering into these Terms, to the extent permitted by applicable law, you and Get the Gallery are waiving the right to a trial by jury.
- B. **Statute of Limitations.** You agree that any cause of action related to or arising out of your relationship with Get the Gallery must commence within ONE year after the cause of action accrues. Otherwise, such cause of action is permanently barred.
- C. **Suggestions.** We do not want to receive information that is confidential or proprietary. If you send us suggestions, Content or ideas of any kind, including potential improvements to the Site or Services, we may use such suggestions, Content and/or ideas for any or all purposes, with no compensation or attribution to you.
- D. **Not Construed Against Drafter.** These Terms will not be construed against either party as the drafter.
- E. **Legal Fees.** We will be entitled to recover any legal fees and other costs associated with enforcing these Terms.
- F. **Entire Agreement and Amendments.** We may communicate with you by posting on the Site. These Terms along with the Privacy Policy and Rental Terms constitute the entire agreement between you and Get the Gallery and it replaces any other agreement between us on this subject. Aside from our right to make changes described in Section 12, any amendments to these Terms or waiver of Get the Gallery's rights hereunder shall not be valid or effective except in a written agreement bearing the physical signature of an officer of Get the Gallery. No purported waiver or modification of these Terms by Get the Gallery via telephonic or email communication shall be valid.
- G. **Assignment.** You may not assign or delegate these Terms, the Privacy Policy, the Rental Terms or any rights or obligations thereunder without our prior written consent. Get the Gallery may assign these Terms, the Privacy Policy or the Rental Terms, in whole or in part, or any rights or obligations thereunder to any person or entity at any time with or without your consent.

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- H. **No Waiver.** If any part of these Terms is held invalid, illegal or unenforceable, such part will be construed consistent with applicable law. The remaining provisions of these Terms will remain in full force and effect. Any delay or failure to require performance of any provision by Get the Gallery will not constitute a waiver of any of Get the Gallery's rights and will not impede Get the Gallery's ability to enforce that or any other provision in the future.
- I. **Modifications by You.** Any modifications by you to these Terms must be made in a writing executed by both parties. Any notices to Get the Gallery must be sent to Get the Gallery, LLC., 1515 Wynkoop St. Suite 360, Denver CO 80202 USA, with a copy sent via first class or air mail or overnight courier, and delivery is deemed given upon receipt.
- J. **Relationship of the Parties.** The relationship of the parties created by these Terms is that of independent contractors and not that of employer/employee, principal/agent, partnership, joint venturers or representative of the other.
- K. **Survival of Terms After Agreement Ends.** Notwithstanding any other provisions of these Terms, or any general legal principles to the contrary, any provision of these Terms that imposes or contemplates continuing obligations on a party will survive the expiration or termination of these Terms.