

artSPARK Creative Studio, Inc.
Terms and Conditions for Participation

In consideration of my involvement and/or the involvement of the minor child for whom I am legally responsible in events and/or activities (the “Activities”) offered by, on the premises of, or for the benefit of artSPARK Creative Studio, Inc. (“artSPARK”), I hereby agree to these Terms and Conditions for Participation (the “Terms”).

1. Release and Waiver of Liability, Indemnification (initial) _____

I understand that the Activities have the potential to be or to become dangerous, and that the Activities have the potential to cause injury, including damage to personal property or bodily injury up to and including the risk of death. For example, there are inherent risks relating to the premises, and risks involved in handling the materials or tools provided by artSPARK for participation in the Activities or stored on the premises, such as low temperature glue guns, paints, and other materials. The risks may also include general risks inherent in partaking in group and/or outdoor activities, including without limitation, risks from tripping or falling, wildlife, communicable diseases, and other risks.

ON BEHALF OF MYSELF AND/OR MY MINOR CHILD OR THE MINOR FOR WHICH I AM THE LEGAL GUARDIAN (IN EITHER CASE, “THE MINOR”), AND MY (OR THEIR) HEIRS, ASSIGNS, AND NEXT OF KIN, I HEREBY WAIVE ANY AND ALL CLAIMS, DEMANDS, CAUSES OF ACTIONS AND LIABILITIES OF ANY KIND (TOGETHER, “CLAIMS”) THAT I MAY HAVE AGAINST ARTSPARK AND ITS OWNERS, AGENTS, EMPLOYEES, OFFICERS, DIRECTORS, AFFILIATES, SUCCESSORS, AND ASSIGNS (TOGETHER, THE “RELEASED PARTIES”) ARISING FROM OR IN ANY WAY RELATED TO THE ACTIVITIES OR MY PARTICIPATION IN THE ACTIVITIES, INCLUDING TRANSPORTATION TO OR FROM THE ACTIVITIES, WHETHER ARISING UNDER CONTRACT, TORT, OR ANY OTHER THEORY OF LIABILITY, AND RELEASE AND FOREVER DISCHARGE THE RELEASED PARTIES FROM LIABILITY FOR SUCH CLAIMS, AND AGREE TO INDEMNIFY AND HOLD THE RELEASED PARTIES HARMLESS FROM SUCH CLAIMS.

NOTWITHSTANDING THE FOREGOING, THIS WAIVER AND RELEASE WILL NOT APPLY TO ACTS OF GROSS NEGLIGENCE OR INTENTIONAL OR WILLFUL MISCONDUCT BY THE RELEASED PARTIES.

EXCEPT FOR DAMAGES ARISING FROM THE RELEASED PARTIES’ OWN INTENTIONAL OR WILLFUL MISCONDUCT, I AGREE THAT THE RELEASED PARTIES WILL HAVE NO LIABILITY FOR ANY EXEMPLARY, INDIRECT, SPECIAL, PUNITIVE, INCIDENTAL, OR CONSEQUENTIAL DAMAGES (INCLUDING WITHOUT LIMITATION PAYMENT FOR LOST SALES, LOST PROFITS, BUSINESS INTERRUPTION, COST OF SUBSTITUTE GOODS OR ACTIVITIES, LOSS OF GOODWILL, OR REIMBURSEMENT FOR EXPENSES OR INVESTMENTS MADE OR COMMITMENTS ENTERED INTO) ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT, IN ANY TYPE OF ACTION WHATSOEVER, EVEN IF THE RELEASED PARTIES HAVE BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES OR IF SUCH DAMAGES ARE REASONABLY FORESEEABLE.

I FURTHER AGREE THAT THE MAXIMUM AGGREGATE LIABILITY THAT THE RELEASED PARTIES WILL HAVE UNDER THESE TERMS IS THE AMOUNT ACTUALLY PAID TO THE RELEASED PARTIES TO PROVIDE THE ACTIVITIES, AND IN NO EVENT WILL I BE ENTITLED TO RECOVER DAMAGES BEYOND THE AGREED FEES FOR THE ACTIVITIES.

I AGREE TO DEFEND, INDEMNIFY, AND HOLD HARMLESS ARTSPARK AND ANY OF THE RELEASED PARTIES FOR DAMAGES CAUSED BY MY ACTS OR OMISSIONS, OR THE ACTS OR OMISSIONS OF THE MINOR(S), INCLUDING SITUATIONS WHERE I OR THE MINOR(S) CAUSE DAMAGES OR INJURY TO PROPERTY OR TO PERSONS WHILE ON SITE AT ARTSPARK (OR ANY LOCATION WHERE ARTSPARK IS OFFERING OR PROVIDING ACTIVITIES), OR WHILE PARTICIPATING IN THE ACTIVITIES.

I understand that this release of liability includes a release of liability for any communicable diseases that may be acquired or passed by attending in-person events, including COVID-19.

These Terms, including the release and waiver of liability in this section, shall apply to Activities taking place at any location, whether or not on the premises of artSPARK or another Released Party.

I understand that this release and waiver of liability and the limitations on damages set forth in these Terms are part of my bargain with artSPARK and the Released Parties, and that artSPARK has relied on these Terms to offer or provide the Activities.

2. Fees and Payment. (initial) _____

I understand and acknowledge that full payment is required by the start of each Activity, and that there is a \$25 fee for any ACH or debit transactions returned by the bank or other financial institution.

3. My Responsibilities (initial) _____

I understand that I must be at least eighteen (18) years old and able to enter into binding legal contracts to book the Activities.

I agree to comply with any applicable laws or regulations, and to require the Minor(s) to comply with such laws and regulations, at all times during the Activities, or while on the premises at artSPARK's locations, or while hosting an Event for which artSPARK will offer Activities, including, without limitation, restrictions on the use of public lands, permitting requirements, licensing, and public health orders.

I understand that I am responsible for providing complete and accurate information to artSPARK regarding myself and the Minor(s) participating in the Activities, and for complying with all of the policies and procedures of artSPARK. Unless I have otherwise provided a detailed notice to artSPARK in writing, to the best of my knowledge the participant in the Activities, whether myself or the Minor(s), does not have any physical, emotional, or social conditions that make it dangerous for the participant (or any other participants) to participate in the Activities.

I understand that I have an ongoing responsibility to update artSPARK regarding information about the participant that I have provided, including without limitation, any new or newly apparent conditions of myself or the Minor(s) or any changes to authorized adults.

4. artSPARK Activities at your Event (only for off-site events) (initial) _____

In the event that I book artSPARK to offer or provide an Activity at an event that I am hosting (the "Event"), I understand that I will remain responsible at all times for the supervision and direction of guests at the Event, including any minors that are present. artSPARK will be present for the sole purpose of offering the Activity, and not for supervising minors or other guests or ensuring their general safety.

I will provide an event coordinator or point of contact for artSPARK who will be available throughout the Event. The contact will be responsible for making any financial or time-based decisions on the day of the

Event. If no separate contact is provided, artSPARK will address any such questions to the person who booked the Activities for the Event.

I will provide a reasonably accurate head count for the Event, and notify artSPARK if there are any changes to the number of participants in the Activities so that artSPARK can allocate the appropriate resources, materials, and supplies and to the Event. If the original scheduling includes the maximum number of participants, artSPARK will make a good faith effort to accommodate extra participants, but may be unable to accommodate additional persons or may require an additional per-guest fee to accommodate the larger number of participants present. I understand that artSPARK will include the additional per-guest fee on the invoice for the Activities and agree to pay any such fees for additional participants present at the Event.

I understand that I am responsible for providing a reasonably safe and dry environment for artSPARK to offer or provide the Activities. Accordingly, I understand that I am responsible for my behavior and the behavior of other guests at the Event, any and all animals that are onsite at the Event, and for the general condition and any dangers present at the premises where the Event is held. I acknowledge and agree that if the personnel of artSPARK experiences any inappropriate, threatening, hostile or offensive behavior from any person at the Event, or is subjected to aggressive, uncontrolled or unsecured animals at the site of the Event, or dangers or unacceptable risks resulting from the condition of the premises where the Event is held or weather conditions which make it unsafe or impractical to provide the Activities, the personnel will notify the event coordinator (or me) and may require that the offending person leave the Event, that the offending animal leave or be secured, or that any other danger on the premises be remediated or that the Activities be moved to a more sheltered location. I also understand that if the behaviors or risks are severe or ongoing, artSPARK personnel will end the Activities immediately, and will leave the Event. I understand that I will not be entitled to a refund or for any damages for incomplete Activities if the artSPARK personnel leaves for these reasons, and I will be responsible for paying the balance due for all Activities upon receipt of the invoice from artSPARK.

I also understand that if other vendors or service providers are present at the Event, artSPARK will have no responsibility or liability for the other vendor's set up, tear down, décor, damages, or other responsibilities or liabilities.

I understand that artSPARK will offer the Activities at the Event, and will make efforts to engage participants in the Activities, but that artSPARK requires assistance and cooperation from the guests of the Event to actually engage in the Activities. I also understand that participation in any particular Activity is at all times voluntary, and up to each guest.

I agree to limit the Event to individuals who are not displaying symptoms or signs of potentially serious communicable illnesses – such as fevers, severe congestion, respiratory infections, headaches, sore throats, unexplained or contagious rashes, etc.

Unless otherwise agreed in writing at the time of booking artSPARK to provide Activities at the Event, I agree to grant artSPARK the right to use my name or the name of the hosting organization, and general information about me or the Event on artSPARK's list of clients, for internal uses, and the right to use my name and logo, if applicable, in sales and marketing collateral or presentations.

5. Supervision.

(initial) _____

I understand that I or another responsible adult must supervise the Minor(s) on the premises of artSPARK, or any other location where artSPARK offers Activities, until the scheduled start time of the Activity, or any other time provided to me by artSPARK. I further understand that I or another responsible adult must be present to supervise any Minor(s) within 5 minutes following the scheduled end time of the Activity. I

also understand and will comply with any time limits present in the policies and procedures provided by artSPARK regarding my availability and response time upon notice from artSPARK that the Minor(s) must be picked up due to illness, injury, or behavioral issues that impact artSPARK's ability to effectively or safely provide the Activities to the Minor(s) or to fellow participants.

I understand that artSPARK may have, or may in the future institute, a fee for late pickups, and I agree to pay such fee in the event that I, or an authorized adult, does not arrive to pick up the Minor(s) by the specified time.

I understand that artSPARK will release Minor(s) to authorized adults only, and that the adult picking up the Minor(s) may be asked to show an ID to determine whether the adult is authorized.

I will inform artSPARK of any court orders or custody determinations that are relevant to the Minor(s) and/or to the adults who are authorized to pick the Minor(s) up at the end of the activities.

6. Permission to Provide Emergency Medical Care. (initial) _____

I understand that artSPARK will attempt to notify me as soon as reasonably possible in the event of any serious injury or emergency affecting the Minor(s).

I authorize artSPARK and its owners, officers, employees, agents, or other personnel to provide first aid, emergency medical care, or to transport or arrange for the transportation of myself or the Minor(s) to a medical facility for further treatment, as determined by artSPARK if the need for medical treatment arises or becomes apparent during the Activities. I give permission for the transportation in a vehicle owned by artSPARK or by any of its owners, officers, employees, agents or other personnel in the event of a medical emergency, or by emergency responders or ambulance, as determined by artSPARK in its best judgment at the time of the medical emergency. I consent to and authorize artSPARK to obtain and consent to medical treatment on behalf of myself, if I am unable to consent, or the Minor(s) in the event that artSPARK determines that medical treatment from a medical professional is indicated during the Activities.

I understand and agree that I will be responsible for any and all medical expenses incurred on my behalf or on behalf of the Minor(s), and that the nearest medical facility or the facility that artSPARK or any emergency personnel may determine is appropriate may or may not be at a location that is in network under my insurance.

I understand and agree that although the owners, officers, employees, agents or other personnel may have training in first aid, they are not medical professionals, and will make decisions on treatment for myself or the Minor(s) based on their understanding as laypeople of the severity of the injury or illness, and will exercise their best judgment regarding the requirement for medical treatment.

I understand and agree that in the event of minor injuries to the Minor(s) such as minor cuts, scrapes, burns, or bumps, artSPARK may notify me of the minor injury upon pick up of the Minor(s).

7. Model Release. (initial) _____

artSPARK does not publish pictures, videos, or recordings that include faces or readily identifiable features of the Minor(s) without specific approval from the parent or legal guardian of the Minor, and will not publish any pictures, videos, or other recordings which include the street address of an individual's home.

I understand that artSPARK may take photographs, videos, or other audio or visual recordings of participants in the Activities, which may include myself or the Minor(s), or the artwork created by

participants in the Activities. By initialing this provision, I specifically agree to permit artSPARK to make such images or recordings and to use such images or recordings for any legal purpose, including without limitation commercial purposes such as advertising or promotion of artSPARK, without compensation or the right to approve the images or recordings, their use, or any text that may be created or appear in connection with the images or recordings. I understand that such use may include use on artSPARK's website, social media, and other promotional uses.

I understand that this release applies to me, and to any Minor(s), and to any artwork created by either of us.

8. Cancellation or Modification of Activities.

Due to the different types of activities that are offered by artSPARK, including the fact that some Activities may be weather-dependent or may require specialized materials or tools, I understand that different policies may apply with respect to the cancellation or modifications of the Activities that will be offered by artSPARK. I agree to review the cancellation or modification policies regarding the specific Activities for which I or the Minor(s) plan to attend, and to abide by artSPARK's determination of the need for cancellation or modification of the relevant Activities.

I understand that if I need to cancel my or the Minor(s)'s participation in specific classes, camps, lessons, or other Activities, for personal reasons, that I must do so from within my own account or by email and understand that I will need to abide by the cancellation policies for the specific Activities.

9. Refunds. (initial) _____

Due to the subjective nature of providing the Activities, artSPARK cannot offer refunds solely on the basis of client dissatisfaction. I have had an opportunity to discuss and review artSPARK's body of work, and understand that artSPARK intends to offer and provide Activities consistent with the body of work. I understand that my personal dissatisfaction does not constitute a breach of contract if artSPARK has provided the scheduled Activities, subject to the constraints of the circumstances of the location, conditions, participation, timeline, and nature of the event.

10. General Disclaimers. (initial) _____

I understand that making art can be messy, and agree that artSPARK will not be responsible for stains, rips, or tears to participants in the Activities clothing, or to the surrounding furniture or areas of the location where the Activities are offered. I understand that any clothing that I or the Minor(s) wear may be subject to stains, damage, or contact with the materials or supplies used in the Activities, and that artSPARK will have no responsibility for damages thereto. I also take full responsibility for cleaning and treating such stains or damages to surrounding areas if I am hosting an Event, as appropriate, and understand that artSPARK will have no responsibility for damages thereto.

I understand that some individuals may have allergies or sensitivities to certain supplies or materials used by artSPARK. artSPARK may provide me with an ingredient list for materials used in the Activities upon my request, and when it is feasible to do so, but cannot guarantee that there is no cross contamination or that there are no allergens present in its materials or supplies used to provide the Activities, or that other participants in the Activities will bring or be contaminated with allergens. I understand that I will retain ultimate responsibility for ensuring that the materials or supplies provided by artSPARK are safe for my use or the use of the Minor(s), and I affirm that artSPARK will have no responsibility for or liability with respect to allergies, sensitivities, or other injuries resulting from contact with the materials or supplies provided as part of the Activities.

I understand that certain characters are protected by copyright (including without limitation, many cartoon

characters). I understand that artSPARK does not intend to violate any copyright laws, and that artSPARK will use characters and designs of its own creation in preparing the Activities, and will not intentionally copy copyrighted characters. Any resemblance to known copyrighted characters in the Activities is unintentional.

11. Force Majeure Events.

If the happening of any force majeure event which makes it impossible, unsafe, or impracticable to move forward with the scheduled Activities, you agree to make a good faith effort to reschedule the Activities. artSPARK will not charge any fees for rescheduling or relocating in the case of a force majeure event. If a force majeure event has impacted the event, and rescheduling or relocating is not possible, neither party will be liable or responsible to the other party, nor be deemed to have defaulted under their agreement, except that any initial deposit shall remain non-refundable.

Force majeure events include, without limitation: (a) acts of God; (b) flood, fire, earthquake, avalanche, or explosion; (c) war, invasion, hostilities (whether war is declared or not), terrorist threats or acts, riot, or other civil unrest; (d) government order or law; (e) action by any governmental authority; and (f) national or regional emergency

12. Notices.

Any notice, demand, or other communication under these Terms will be sufficient if in writing and sent by email or mailed to the other party's mailing address or email address.

13. Third Parties.

These Terms, and any agreements, representations and warranties set forth in these Terms or otherwise between the parties are not intended for the benefit of any third party, and these Terms will not be enforceable by any person or entity that is not a party to the agreement.

14. Assignment, Subcontracting.

I understand that I cannot assign any of my rights or obligations under these Terms, including the right to participate in the scheduled Activities, by operation of law or otherwise, to any person or entity without the express written permission of artSPARK. Any attempted assignment without such written permission will be null and void.

I further understand that artSPARK may assign its rights or obligations under these Terms or any agreed Activities in whole or in part to other individuals or entities acting as a subcontractor. artSPARK agrees and acknowledges that it will be liable as between you and artSPARK for work performed by any subcontractor under these Terms.

These Terms will be binding upon and inure to the benefit of the parties and their respective representatives, successors, and permitted assigns.

15. Relationship; No Exclusivity.

Each party acknowledges and agrees that these Terms are not intended to confer, and will not be construed as conferring, exclusive rights upon either party. You may procure similar goods or Activities from any other party, even one that might be competitive with artSPARK.

These Terms and any associated agreements for Activities shall not render artSPARK an employee, partner,

agent of, or joint venturer with you for any purpose. artSPARK is and will remain an independent contractor in its relationship to you, open to conducting similar tasks or activities for other individuals or entities, including your competitors. artSPARK holds itself out to the public to be a separate business entity.

artSPARK shall retain sole and absolute discretion in the manner and means of carrying out the Activities under these Terms. artSPARK reserves the right to use independent subcontractors to provide the Activities.

16. Interpretation and Dispute Resolution.

(initial) _____

These Terms will be applicable to any Activities that I request or receive through artSPARK, and by scheduling Activities I understand that I am agreeing to these Terms. These Terms are incorporated by reference into any proposal, plan or invoice that I have received or requested from artSPARK, and will apply unless an amendment or alteration to these terms is specifically agreed to in a writing signed by both parties.

The failure of either party to insist on strict performance of any covenant or obligation under these Terms, regardless of the length of time for which such failure continues, shall not be deemed a waiver of such party's right to demand strict compliance in the future. No consent or waiver, express or implied, to or of any breach or default in the performance of any obligation under these Terms shall constitute a consent or waiver to or of any other breach or default in the performance of the same or any other obligation.

Any provision of these Terms that is intended to continue to apply after any termination or completion of the Activities will survive such termination or expiration and continue to apply in accordance with its terms.

Whenever possible, each provision of the Terms will be interpreted so that it is valid and enforceable under applicable law. If any provision or the application thereof is held to be invalid, illegal, or unenforceable to any extent, the provision should be enforced to the furthest extent that is valid and legal, and these Terms should be considered amended to the smallest degree possible in order to give maximum effect to the intention of the parties as expressed in these Terms. All other provisions of these Terms will not be affected and will be enforceable to the fullest extent permitted by law.

I agree that these Terms and any agreement between me and artSPARK is to be governed and construed in accordance with the laws of the State of Colorado (without regard to its conflict of law provisions).

In the event of any dispute, I agree that prior to filing any lawsuit, representative of each party will meet (in person or by telephone) within fifteen (15) days after receipt of notice from the other party specifying the nature of any dispute, to attempt to resolve any such claims in good faith. If the dispute remains unresolved for thirty (30) days after the original notice of claim, I understand that either party may proceed with remedies at law or in equity. Any legal action with respect to this Contract must be brought in the courts located in Denver County, Colorado or in the US District Court for the District of Colorado.

I understand that these Terms contain the entire Terms between myself and artSPARK, and supersedes any prior written or oral agreements between us concerning the subject matter of these Terms. The provisions of these Terms may be waived, altered, amended or repealed, in whole or in part, only upon the prior written agreement of all parties—including artSPARK.

[Signatures on Following Page.]

If I have signed these Terms or indicated my consent to these Terms electronically, my signature or indication of consent shall be treated in all respects as having the same effect as an original, handwritten signature, and shall also be considered authorization to conduct this transaction electronically.

I understand, confirm, and agree that by signing these Terms I have given up considerable future legal rights—rights that otherwise may or would have been held by me and/or the Minor(s) absent these Terms. I have signed these Terms freely, voluntarily, under no duress or threat of duress, without inducement, promise, or guarantee being communicated to me. My signature is proof of my intention to execute a complete and unconditional WAIVER AND RELEASE of, and INDEMNIFICATION from, all liability to the full extent of the law, and I hereby do so on my own behalf and on the behalf of the Minor(s), if any.

I have read, understood, and agree to these Terms:

Parent/Legal Guardian Printed Name

Parent/Legal Guardian Signature

Name of Minor

Date

Name of Minor

Date