

## Chapter 5: Three-Dimensional Reproductions

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# CHAPTER 5: THREE-DIMENSIONAL REPRODUCTIONS

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## A. Overview

1. *What does this chapter cover?*

This chapter contains information on the reproduction of three-dimensional (3-D) museum objects. It outlines the steps to take when you reproduce or arrange for the reproduction of a NPS museum object. Sample agreements for making 3-D reproductions and a glossary are included. The chapter doesn't cover reproducing photographic or digital images of 3-D objects, digital files, microfilm, motion picture film, photographic reproduction, sound recordings, videotapes, and xerographic copies. These topics are covered in Chapter 4: Two-Dimensional Reproductions.

2. *What is a three-dimensional reproduction?*

A 3-D reproduction is a three-dimensional copy of the original. A 3-D reproduction can be one of the following:

- **Adaptation:** an object that is based on an original work in the NPS museum collection whose shape, size, form, or materials have been altered to meet contemporary requirements. An adaptation captures the spirit of the original but isn't considered a copy, such as a branding iron made into a candlestick.
- **Cast:** an exact duplicate of the original but in a different material or medium. It is produced by first making a mold of the original and then making an exact cast from the mold. Examples include paleontology specimen casts.
- **Creation:** a newly developed item that is based on research or inspired by the original object. Examples include a coloring book based on a park theme or a card game based on the battle commemorated by the park.
- **Interpretation\*** (also called a derivative work): an object whose shape or design motif is based on a motif or derived from an original work in the NPS museum collection. It is produced in a different context, medium, or form from that of the original. The resulting object may bear little or no resemblance to the original work but preserves some aspect of the original, such as making jewelry based on a portrait in the collection, or putting a pottery motif on a scarf.
- **Reproduction\*** (also called a replica): an exact copy of an original object or specimen in the NPS museum collection. A reproduction accurately duplicates materials, proportions, size, color, and decorative techniques. A reproduction is often, but not necessarily, made using the same manufacturing process as the original object. Minor changes in size, materials, or internal structure may be necessary, but the essential character and integrity of the original object is unchanged. Examples include a reproduction of the Martin van Buren dining table and a copy of a hand-woven Navajo rug on exhibit at Hubbell Trading Post.

- **Scale model:** a to-scale copy of an original object or specimen in the NPS museum collection. It accurately renders, to scale, the object or specimen's proportions, color, structure, surface, and materials. Examples include scale models of trains, miniature cannon, vehicles, paleontology, and large mammal specimens.

\*The asterisked definitions noted above are adapted from the Henry Francis du Pont Winterthur Museum, Inc., *Requirements for Licensees, Specifications for Winterthur Products, and the Product Development Process* and The Thomas Jefferson Memorial Foundation License Agreement.

3. *What's the purpose of making a 3-D reproduction of an object or specimen?*

A 3-D reproduction makes NPS museum collections more accessible to a wide range of people and promotes the NPS mission of preservation, research, and public enjoyment of park resources. A high quality reproduction stimulates recognition of the people, places, and events the park commemorates. A reproduction fosters appreciation and understanding of the tangible objects people made or used, and of the flora and fauna that are present or were once present in the park.

When you use a reproduction in an exhibition, you need to clearly state that it is a reproduction in the accompanying caption label. As a courtesy and an educational and interpretive tool, you should also explain why you are using a reproduction rather than the original.

A museum object can be reproduced for:

- **Exhibition:** if the original object is too fragile to put on extended exhibit such as a feather headdress or hand-dyed and woven rug. You may reproduce objects that aren't in the museum collection but may be original to the park, for use in an exhibit. Examples include reproducing and exhibiting a writing desk that belonged to the park's eminent figure. When you use a reproduction in an exhibit, the accompanying caption should clearly state that it is a reproduction (refer to Section E.7). As a courtesy and an educational tool, you should also explain why you are using a reproduction rather than the original.
- **Research:** if the object is needed for research and study purposes, such as reproducing a paleontology type specimen or an archeological artifact, such as a projectile point. A reproduction saves the original from extended use and wear. Casts make study specimens more widely available to the research community.
- **Education and Interpretation:** if the original museum object is needed for the park's education and interpretation program where it would be subjected to unacceptable wear or deterioration, or there is a strong possibility of breakage, vandalism, or theft (See Chapter 1, Section H, Interpretation Issues.)
- **Commercial Use:** as an attractive sale item.

4. *Who wants these 3-D reproductions?*
- Many people use 3-D museum reproductions. Professionals who want these reproductions include museum, education, and research professionals, such as curators, exhibit designers, educators, interpreters, and discipline specialists, and educational organizations. Many private individuals, contractors, and for-profit organizations that make reproductions for commercial purposes would also like to have them.
5. *How can parks make 3-D reproductions of park collections for NPS purposes?*
- Parks can make reproductions in three ways:
- The park can reproduce objects in-house to incorporate into an exhibit or to fill a gap in the museum collection.
  - The park can hire a contractor to reproduce a museum object or specimen to include in an exhibit or to fill a gap in the museum collection, that is, for use in-house.
  - The park can enter into an agreement with a cooperating association, which in turn enters into a third party agreement with an individual contractor or organization (for-profit or nonprofit) to reproduce a museum object for distribution or sale. Three-dimensional reproductions can be sold through:
    - the park cooperating association shop
    - the regional cooperating association
    - non-NPS museum shop(s)
    - catalog sales
    - electronic sales, such as the World Wide Web
6. *Can parks allow others to reproduce park collections for non-NPS purposes?*
- Yes, through an agreement, the park can allow a contractor or organization (for profit or nonprofit) to reproduce a museum object for sale or distribution. In this instance the park isn't involved in the reproduction, distribution, and sales process.
- However, it isn't always possible to control the manufacture of a park museum reproduction. An individual might take a picture or make a sketch of an object in the park museum during regular hours, and then go home and make a reproduction without entering into an agreement with the park. In this instance, the park really has no control over the reproduction, and it can't be an authorized NPS reproduction.
7. *What 3-D collection items are most frequently reproduced?*
- The most frequently reproduced items are:
- *objects*, including cannon, clothing, furniture, jewelry, and household items, such as clocks, cutlery, coins, mugs, vessels, dinnerware, wall coverings, and sculpture
  - *specimens*, including paleontology and biology items, such as botanical, mammal or ornithology specimens

Documents, manuscripts, and images, including photographs (traditional or digital) of three-dimensional objects are the most frequently reproduced NPS museum collections. For additional information, refer to Chapter 4: Two-Dimensional Reproductions, and *Museum Handbook*, Part II (MH-II) Appendix L: Photography.

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## B. Preliminary Policy and Planning Considerations

### 1. *What NPS policies and guidelines do I need to know?*

Familiarize yourself with the sections related to managing museum collections in the NPS policies and guidelines listed in Chapter 1, Section C.3; Chapter 2: Legal Issues; and the guidelines below:

- Director's Order #32: Cooperating Associations
- Director's Order #21: Donations and Fundraising
- Director's Order #53: Special Park Uses and *Reference Manual 53* (formerly NPS-53)
- NPS Cooperative Agreement Authority (February 2, 1998)
- Omnibus Consolidated Appropriations Act of 1997 (PL 104e-208 [September 30, 1996], Title I, National Park Service, Administrative) allows the NPS to *enter into cooperative agreements...for the public purpose of carrying out NPS programs....*

### 2. *Under what conditions can I grant permission to reproduce a NPS object?*

The superintendent can authorize the reproduction of a NPS museum object, if the issues outlined in Chapter 1: Evaluating and Documenting Museum Collections Use, are addressed. If you grant permission to one non-NPS individual or organization to reproduce a museum object, then you should allow the same access to other non-NPS individuals or organizations. However, you can deny permission to reproduce the object if conditions have changed since you first authorized a reproduction, or if management issues outlined in Chapter 1, Section C, become a concern. This includes a change in object condition or if you determine that additional handling or the reproduction process itself may cause damage. You can limit access to specific times because of limited park resources such as staffing.

You should provide access to museum collections in order to make a reproduction in accordance with NPS:

- policy
- preservation and protection guidelines
- access and use guidelines
- confidentiality of resources data

***Remember that only the superintendent can authorize the reproduction of a museum object or specimen.***

3. *Can the NPS control the manufacture of a reproduction?*

*Yes and no.*

- Yes, the NPS can control the reproduction if there's a signed reproduction agreement between the concerned parties. The NPS can control the reproduction if:
  - the NPS requested and contracted for the reproduction
  - the reproducer works with the park to develop and distribute the product as an authorized authentic NPS reproduction

The reproduction agreement signed by the NPS and the contractor or organization should stipulate all the conditions and specifications that must be met. It should indicate what steps will be taken if the conditions aren't met.

***Every reproduction of a NPS museum object must carry a reproduction mark, NPS credit, caption and interpretive label.***

Refer to Section E.6 for detailed information on NPS credits and captions.

- No, the NPS can't control the reproduction if there isn't an agreement between the NPS and the reproducer. If the reproducer develops a 3-D reproduction on his or her own, basing the reproduction on memory, interpretation, or a photograph taken in an area that is open to the general public (see Chapter 6, Section D, Filming and Photography in Spaces that House Museum Collections), then the NPS has no control over the reproduction. In this instance, the reproducer has had the same access to the collections as the general park visitor. The park didn't provide any special access to the collection and therefore has no control.

It is also possible that a person may have had access to the object and studied, measured, and photographed the object, and then at a later date decided to reproduce the object without an agreement. In this instance, the NPS has no control over the reproduction. However, the reproduction can't be considered or called a NPS authorized reproduction. If the reproducer calls the item an authorized NPS reproduction, the park should consult with the regional/SO curator and solicitor to determine what action to take.

4. *Can the park license reproductions or charge a fee for a reproduction?*

No. The NPS doesn't have the authority to license products or receive royalties or a fee for making a reproduction of a museum object or specimen. The NPS may recover its associated costs if a special use permit for the reproduction has been issued. A third party, such as the park cooperating association, can license a product. The park, however, needs to follow procedures outlined in Figures 5.3 and 5.4, and in Chapter 3, Section E.17, How do I obtain licenses and permissions? Refer to Chapter 6, Section B.7, and Director's Order #53: Special Park Uses, and the accompanying *Reference Manual 53*. The specifics of recouping costs should be spelled out in the special use permit and any agreement the park signs. Establish a mechanism for the park museum to recover costs in accordance with Special Park Uses. Work with the park administrative and contracting officers to make sure the reproduction costs go into a cost recovery account.

5. *What management issues do I need to consider?*

Carefully weigh all the legal, ethical, cultural, management, scientific, preservation and protection, documentation, and interpretive issues outlined in Chapter 1: Evaluating and Documenting Museum Collection Use, when considering a reproduction request. Evaluate all requests fairly and equally, whether it's an in-house, contractor, or a commercial or nonprofit organization request. Work with a museum collection committee as recommended in Chapter 1, Section C, Management Issues, to develop park reproduction procedures and to evaluate all requests to reproduce a museum object or specimen.

If you permit a non-NPS requester to reproduce a museum object for non-NPS purposes once, you must permit it to other non-NPS requesters, unless there is a legitimate management reason not to do so. Each request requires you to reconsider all management issues outlined in Chapter 1, Section C. If the object condition has deteriorated since the last authorized reproduction, or the proposed reproduction process or material may damage the object or specimen, then you can deny the request.

Evaluate the following issues when considering a request:

- **Legal restrictions:** Refer to Chapter 2: Legal Issues, for detailed information on laws and regulations governing museum collections. The requester needs to obtain written permission from the rights holder to reproduce objects that are covered by:
  - copyright
  - patent
  - trademark (or service mark)
  - license

Refer to Section E, Glossary, for definitions of these terms.

- **Donor restrictions:** Check the accession folder to make sure that there are no donor stipulations that restrict reproduction of an object. Refer to Chapter 2, Section H.5, How do donor restrictions affect use?
- **Ethical implications:** Refer to Chapter 1, Section D, Ethical Issues, when you consider ethical issues prior to permitting an object to be reproduced.
- **Cultural concerns:** Refer to Chapter 1, Section C, Cultural Issues, for additional information.
- **Preservation and protection requirements:** Before allowing a reproduction to be made, make sure that the object or specimen isn't placed at risk or can be damaged by the reproduction process or materials used in the process, such as those used in mold or cast making. Where possible and practicable, have the object reproduced at the park. This will allow you to supervise the process and ensure that adequate preservation and protection precautions are being taken. Limit the

object's exposure to unnecessary or excessive handling and light and keep the temperature and relative humidity stable and within the ranges outlined in the *MH-I*, Chapter 4: Museum Collections Environment.

Supervise access to the object while the person who is reproducing the object documents the object. If the object can't be reproduced at the park, you must generate an outgoing loan. If appropriate, the borrower should complete a Standard Facilities Report, see *MH-II*, Chapter 5: Outgoing Loans. Verify that the object will be carefully handled, stored, and protected at the reproduction site. Inspect the site. Make sure that the object is stored in accordance with the *MH-I*, Chapter 7: Museum Collections Storage, for the duration of the loan. For additional guidance, refer to Chapter 1, Section G, Preservation and Protection Issues.

- **Handling, packing, and shipping:** Make sure that all object handling, packing, and shipping procedures, from the time the object is taken from the park museum to its return, follow the handling procedures outlined in the *MH-I*, Chapter 6: Handling, Packing and Shipping Museum Objects.
- **Documentation:** Record all activities associated with the reproduction process in accordance with Chapter 1, Section J, Documentation. Refer to Figures 5.1-5.4 for additional information. Make sure the requester completes all NPS required forms and that there is a signed agreement outlining conditions and detailed specifications.

Account for reproductions that come into the park's possession in accordance with procedures outlined in the *MH-II*, Chapter 4, Section IV, Reproductions, Living History Items, Exhibition Aids, and Outdoor Exhibits. For reproductions in the museum collection, file all documentation in the accession or catalog folder. You can also establish a reproduction folder that contains duplicate documentation for ready reference.

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## C. Reproductions for NPS Purposes

### 1. *How do I determine if park staff can make the reproduction?*

Determine whether NPS staff has the skill, tools, equipment, and time to make a high-quality reproduction. If not, identify a suitable contractor or commercial organization to make the reproduction. Make sure that the product is appropriate to the park mission. Remember that manufacturing a good reproduction takes considerable staff commitment and resources. Calculate how much it will cost you to make a reproduction in-house, as opposed to having it made by an outside contractor.

- Don't allow unskilled or untrained staff to do the reproduction work. Survey park staff to identify skilled professionals or artisans who have the necessary expertise. A glass blower or metal smith in the park living history program or a paleontologist who is skilled at making specimen molds and casts may be an ideal candidate.
- Train the individual in handling museum objects and specimens.

- Make sure that the park has the right supplies and equipment to produce a high quality reproduction. By owning the tools and equipment, blueprints, or drawings, the park will have greater control of the process and development of reproductions in the future.

2. *What arrangements do I need for a park employee to reproduce a museum object?*

Make these arrangements:

- Get the supervisor's authorization in writing for the individual to work on the project.
- Have a signed reproduction agreement with the individual NPS staff member to make the reproduction as part of his or her NPS job responsibility.
- Allot sufficient time to the project to ensure its timely completion. Remember that doing a project in-house doesn't necessarily save the park money and may even take an unacceptably long time.
- Follow the same steps in the reproduction process that you would if working with an outside contractor or manufacturer

3. *With whom should I work to produce reproductions for the NPS?*

Work with individuals or organizations experienced in manufacturing and, if you plan to distribute reproductions, distributing reproductions. The park cooperating or regional association should be able to provide you with names of possible contractors. Select an individual or organization that has:

- experience in developing, manufacturing, and distributing reproductions
- the infrastructure to initiate and complete the reproduction cycle
- qualified staff and equipment to manufacture, distribute, and market the reproduction items
- ability to determine whether the items you want to reproduce have broad appeal

Most parks work with the park cooperating association, which in turn, works with an individual or organization. The park cooperating association, in accordance with Director's Order #32, can ensure that the park museum program can benefit from the reproduction process. You can also work directly with a contractor or for-profit or nonprofit organizations. However, the park can't receive any funds, other than cost recovery monies from this activity. Whichever route you select, make sure that the reproduction agreement includes the sample wording found in Figures 5.1, 5.2, 5.3 and 5.4.

4. *Do procedures differ depending on NPS involvement in the reproduction process?*

The issues you need to evaluate, such as staffing, legal, preservation and protection, and cultural and ethical concerns apply to all reproductions. Generally, you should follow the same procedures whether you're producing the reproduction using:

- in-house staff
- park cooperating associations

- contractors
- commercial product development companies
- nonprofit organizations

5. *Why should a park make a reproduction?*

The park can make a reproduction or have a reproduction made:

- for in-house use, such as an exhibit or interpretive program
- available for sale and distribution through the park cooperating association

The park should enter into an agreement with the cooperating association authorizing the cooperating association to enter into agreements with third parties to produce a reproduction. The park agreement with the cooperating association gives the park control over the quality of the reproduction. See Figure 5.2 for sample wording to include in such an agreement. Monies resulting from these activities can be used to benefit the park museum program in accordance with guidelines outlined in Director's Order #32. Financial terms between the cooperating association and the third party contractor are handled independently of the park. You don't need a special use permit when you work with the cooperating association.

- available for sale and distribution through an individual contractor, commercial company or nonprofit organization

The park is not authorized to, and therefore can't receive proceeds that result from this activity. However, you can recover costs if a special use permit has been issued (see Figure 5.3). You'll need a reproduction agreement and a special use permit. Work with the park contracting officer to develop the reproduction agreement and a museum cost recovery account.

***The superintendent must approve all 3-D reproduction requests.***

6. *Why should I set up cooperative relationships with cooperating associations and other organizations?*

NPS park cooperating associations provide excellent opportunities for parks to increase access to museum collections. In regard to reproductions, the purpose of cooperating associations is to:

- assist parks in supporting museums, exhibits, publications, and other aspects of the park interpretive, educational, and scientific research programs
- sell interpretive and educational materials related to areas and themes of the National Park System
- sponsor or co-sponsor the development and production of materials that directly or indirectly increase the understanding and appreciation of individual park units, the National Park System, or the National Park Service

- Work with the park to develop a park reproduction or act as a co-sponsor with a third party to develop reproductions for distribution and determine if the reproduction:
  - is fairly priced
  - is in keeping with the park’s museum collection as outlined in the scope of collection statement (This includes the reproduction content, method of manufacture, durability and packaging.)
  - fits into the overall balance of the cooperating association’s interpretive sales items

7. *How do I set up cooperative relationships with cooperating associations and other organizations?*

Begin with a formal agreement:

- Develop a reproduction agreement that outlines the specifications, limitations of production, time, and if applicable, a cost-recovery mechanism. Refer to Section E.2, and Figures 5.1-5.4 for sample wording to include in an agreement.
- Ensure that the agreement includes:
  - a patent, trademark, and license statement outlining the responsibility of the contractor or organization to obtain permission to reproduce the object

For example: The reproducer (contractor or organization) agrees to obtain written permission to reproduce the item from the patent, trademark, and license holder.

- a statement that holds the NPS harmless from legal claims arising from the manufacture, sale, and use of the reproduction

For example: The reproducer (contractor or organization) will indemnify, save, and hold harmless the United States against all fines, claims, damages, losses, judgments, and expenses arising out of, or from, any omission or activity of the manufacture, sale, and use of the reproduction.

Refer to Director’s Order #32 and to Chapter 3, Section J.6.

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**D. Reproductions for Non-NPS Purposes**

You may receive a request from a non-NPS entity to reproduce a NPS museum object or specimen. Whether the entity is a federal or non-federal organization, you should answer the questions listed below.

1. *What do I need to know to make a decision about the appropriateness of the reproduction request?*
- In addition to satisfying the management concerns outlined in Chapter 1, you need acceptable answers to the following questions:
- Will the reproduction enhance and support the research and educational mission of the NPS and the park?
  - Is the reproduction related to the park's interpretive themes?
  - Does the reproduction help park visitors better understand and appreciate NPS park museum resources?
  - Will a greater number of researchers and the general public have increased access to NPS museum resources?

If you determine that the reproduction request and subsequent use is potentially problematic, carefully document your findings. Consult with the regional/SO curator and the NPS solicitor. Send your recommendation and supporting documentation to the superintendent for approval.

Always ask the same questions and apply the same procedures to all reproduction requests. This will ensure that the park's actions are consistent and fair.

2. *What kind of agreement do I need for a reproduction that is for a non-NPS purpose?*
- When you develop a reproduction agreement for non-NPS use, include the information outlined in Section E.2 and refer to the figures at the end of this chapter.
3. *When should I deny a request for a reproduction?*
- You should deny a request to make a reproduction of all or part of a museum object or specimen when:
- the making of the reproduction has the potential to harm or degrade the museum object or specimen
  - NPS staff aren't available to supervise the process
  - the process significantly interferes with regular museum operations
  - the reproduction presents possible legal liability problems for the NPS, such as a functioning historic firearm, edged weapons, or bow and arrow, or any object relating to alcohol or tobacco
  - copying of the object would violate copyright or other legal restrictions associated with the object

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## **E. Reproduction Agreements**

1. *Why should I have a formal reproduction agreement?*
- A formal reproduction agreement protects the NPS and all the park's rights associated with the museum objects being reproduced. The reproduction agreement outlines the rights and responsibilities of the park and the staff member, contractor, or commercial organization. It allows the park to

maintain control over all the steps in the development and implementation of the reproduction program. See Figures 5.1, 5.2, 5.3, and 5.4 for sample reproduction agreements.

2. *What information should a reproduction agreement contain?*

The reproduction agreement should contain the information noted below. See Figures 5.1-5.4 for sample wording to include in a contract or agreement.

- contractor or organization; address and fax and phone numbers; responsible official
- project description, including
  - an overview of what will be produced
  - the technique used to reproduce the object
  - detailed specifications, including dimensions, weight, color and texture of the finished product
  - what access to the original will be granted
  - the location(s) where the product will be manufactured
  - distribution information, if appropriate
- list of objects or specimens to be reproduced, including catalog number, object description, and object condition report
- object captions, credits and interpretive text
- limitations and restrictions
- duration of the agreement, including:
  - start and end date
  - renewal terms, if appropriate

*Don't make any duration "perpetual" or "indefinite."*

- use of the reproduction, indicating whether the approved usage is:
  - non-exclusive
  - one time (single)
  - limited (For example, the reproduction may only be sold through NPS cooperating association shops.)
- number of editions to be made

- geographic area covered by the agreement:
  - restricted to the USA where possible
  - other countries added separately to the agreement
- prototype specifications, including material, proportions, structure, finish, color, and design
- reproduction process, including technique and materials to be used in making the reproduction, cast, or mold
- production and delivery schedule
- cost recovery fees and payment schedule
- statement that contractor performance is subject to NPS and cooperating association approval
- object handling techniques
- documentation and record keeping requirements
- quality control, including:
  - quality standards
  - how and when the prototype will be reviewed and approved
  - who will evaluate and approve work samples, the approval schedule, and how the work will be evaluated
- schedule for continuing submission of prototypes or samples
- park's authority to inspect the contractor or organization's operation
- compliance with applicable laws
- statement that no modifications are to be made to the reproduction agreement without the park's prior written approval
- statement that park retains the right to withdraw approval in the event of an unacceptable modification or an unfavorable reflection on the park caused by the product
- instructions for packing and shipping originals and reproductions
- product delivery
- product liability insurance

- intellectual rights, including copyright and trademark and patent rights provisions

The reproducer assumes the responsibility of obtaining permission to reproduce objects with trademark, copyright, and any other rights, and patent protection. Refer to the glossary and Chapter 2: Legal Issues, for additional information.

- warranties and indemnification
- dispute resolution, such as mediation or non-binding arbitration
- termination of agreement
- miscellaneous information

The NPS needs a reproduction agreement in place, whether it is with the park cooperating association or with a contractor or organization. The reproduction agreement allows the NPS to establish specifications and maintain quality control. When you work with a cooperating association, make sure that the cooperating association handles all the financial terms between the cooperating association and the organization independently of the NPS. If you're working directly with a contractor or organization to sell and distribute reproductions, and the project was initiated by the contractor or organization and not the NPS, you should have a special use permit in addition to the reproduction agreement. You can recover costs if a special use permit has been issued.

To minimize your workload, write an agreement that lasts for two to five years. For sample wording to include in an agreement refer to Figures 5.1-5.4.

***Don't sign a contractor or manufacturer's standard form or contract. Always use a NPS-generated agreement.***

Consult with the park contracting officer and the regional/SO curator and contracting officer and get NPS solicitor review of the document.

3. *Should I have a special use permit in addition to a reproduction agreement?*

Generally, if the project was initiated by the NPS, you don't need a special use permit. However, you should have a special use permit in addition to the reproduction agreement if the project meets the criteria for special use, and you want to be able to recover reproduction costs. Complete the permit and set up cost recovery arrangements in accordance with the procedures outlined in Director's Order #53. You can download a copy of the document from <<http://www.nps.gov/refdesk/DOrders>>. You should also refer to Chapter 6, Section E.5. Attach a copy of the agreement conditions to the special use permit and make a note on the special use permit that the terms of the attached agreement must be met.

4. *Should I agree to an exclusive use agreement?*

No, never grant any organization exclusive use of NPS museum collections. NPS museum collections are held in trust for all the American people. You can't grant exclusive rights to an individual, group, or organization.

Permission to reproduce any object granted to one contractor or organization should be granted to all other requesters subject to NPS policy and procedural guidelines. However, you can refuse permission if the management issues identified in the Section C, Management Issues, aren't addressed.

***If the superintendent approves the request and the requester sends you a standard form for NPS to grant exclusive use and rights, don't complete it. Always use a NPS-generated agreement that outlines conditions and detailed specification of reproduction.***

5. *Should I grant perpetual or international rights?* **No, never.** Limit all use to a specific time and/or geographic location. Don't grant requests for all international rights or all rights in perpetuity. Grant rights for each defined use, time period, and location. For example, you might grant rights to a vendor to reproduce and distribute Rodman cannon, Catalog Number PARK 4542, in the United States for a period of three years. This will ensure that the NPS retains control over the reproduction process. Requesters can renegotiate or amend existing agreements to accommodate additional uses.

6. *What should be included in a caption?* NPS procedures require that all users of NPS collections, including reproducers, cite a NPS caption. Cite the following elements in a NPS caption:

- item title in quotes, if applicable
- object name
- brief description, including materials and measurements
- date(s)
- artist/maker
- National Park Service
- park or center name
- catalog number

For example: "Coffee Urn; silver, ivory and steel; Rococo style; Height 52.1, Width 31.75 cm; circa 1825; attributed to Samuel Kirk; National Park Service; Hampton National Historic Site, HAMP 3505"

***Always include "National Park Service" and the park name on captions and credits.***

Refer to Chapter 3, E.18, What do I need to know about writing captions?

7. *What information should the interpretive text contain?* In addition to the caption, museum reproductions should carry accompanying interpretive text that provides additional information on the original museum object. The text should benefit the public, increase knowledge, and promote the visibility of the park museum collection. It should further the educational,

interpretive and research goals of the NPS. You should write the text or provide the information to the reproducer. Review the final interpretive label before production to ensure its accuracy.

The short interpretive text that accompanies the reproduction should include information on the following:

- how the reproduction was made
- how the reproduction differs from the original
- where the reproduction was made
- where the original museum object was made
- who made the original
- the function and purpose of the museum object
- cultural, artistic, historical, or scientific significance of the item, including associations with notable individuals or groups, historic events, or significant places, information about usage, and any other pertinent information
- how the consumer should care for the reproduction
- the park's museum collection

You, or the reproducer can combine the caption and interpretive text into a single document to be provided with each reproduction. When you use a reproduction in an exhibit, the accompanying caption should clearly state that the item is a reproduction.

8. *What limitations can I place on a reproduction?*

If you commissioned the reproduction or the vendor is marketing the reproduction as a NPS-approved, authentic copy of a NPS museum object, you can require that:

- the park approves the reproduction
- the reproduction meets the specifications of the agreement, including:
  - design
  - pattern
  - manufacturing technique
  - dimensions
  - proportion
  - structure
  - material

- color
- surface finish
- each product component carries a “reproduction” mark
- the weight of the reproduction differs from the weight of the original, if possible

This information should be noted in the caption and in the accession and catalog folder. This is done to avoid possible confusion between the original and the 3-D reproduction.

- planned differences in manufacture and the final product are noted in the caption, such as a different color wallpaper used with the same design

**F. Developing a Standard Operating Procedure for Reproductions by NPS and By Agreement with Others**

1. *Whom should I involve in setting up a park reproduction program?*

Work with the museum collection committee described in Chapter 1, Section C.1, to develop park reproduction procedures and evaluate reproduction requests. The committee makes recommendations to the superintendent who approves all reproductions. The committee should include the park curator and consult with the following individuals, as appropriate, if they aren't on the committee:

- conservator
- contracting officer
- cultural resource manager
- historian
- interpreter
- natural resource manager
- public affairs officer

Consult with the regional/SO curator, NPS solicitor, and associated groups, as appropriate.

2. *What standard operating procedure should I set up for the park?*

Develop the park standard operating procedure (SOP) for reproductions in consultation with the committee and key park participants. The SOP should outline the park's resources, such as in-house staffing, contractors, nonprofit, and for-profit commercial organizations, and the nature of the park museum

collections. The committee should review all reproduction requests and make recommendations to the superintendent.

To develop a park SOP:

- Define objectives of the SOP.
- Develop a standard restrictions procedure explaining how the park will handle requests to reproduce objects and specimens when such use is restricted by law or NPS management policy and procedures.
- Establish a mechanism to evaluate reproduction requests against management needs of adequate staffing, supervision, space, preservation and protection, and cultural and ethical concerns.
- Identify who will oversee the production of the reproduction.
- Identify under what conditions reproductions won't be allowed.
- Determine how you will identify and meet park-affiliated groups' concerns.
- Determine how to inform the contractor of his or her legal obligations to obtain copyright and other rights and permissions, including use of trade or service marks, patents, and licensed products.
- Develop a production and delivery schedule.
- Establish a procedure for the object to be measured, photographed, and digitized in preparation for the project, including the completion of an object condition report.
- Determine how to select the contractor or manufacturer for NPS initiated projects.
- Establish a mechanism to calculate and receive cost recovery monies.
- Identify potential liability issues associated with making and distributing reproductions. Don't reproduce items that may contain risk or that may harm persons or property, such as firearms or knives. Include language in the agreement to protect and indemnify the NPS from possible litigation. Consult with the NPS solicitor and refer to the sample wording in Figures 5.1-5.4.

***Develop only reproductions that are safe for consumer use.***

- Arrange for adequate insurance coverage in consultation with the park administrative officer and regional/SO curator.
- Make sure all reproductions carry a permanent mark such as "reproduction."

- State standards for the caption, credit, and interpretive text for each reproduction.
- Develop an agreement on reproduction procedures in consultation with the:
  - park contracting officer
  - park administrative officer
  - regional/SO curator
  - regional contracting officer
  - park cooperating association
- Develop a park reproduction agreement template (see Figures 5.1-5.4) with applicable conditions and detailed specifications that can be modified for each project.
- Determine when the park will issue a special use permit in conjunction with a reproduction.

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## G. Producing a Reproduction

1. *Is a special use permit required to reproduce an object?*

*Yes* and *no*.

Yes, if you're working directly with a non-NPS entity that plans to sell and distribute or otherwise use museum reproductions for its own purposes, you'll need a special use permit and a reproduction agreement. You may also issue a special use permit in addition to a reproduction agreement if you are working with a cooperator, other than the park cooperating association, to sell and distribute or otherwise use museum reproductions for a purpose that will benefit the NPS. You may recover costs if a special use permit has been issued. Refer to Section E.3 for additional information.

No, you don't need a special use permit if you're working with a cooperating association, as you'll have an agreement with the association that is subject to Director's Order #32. Also, if you are working directly with a vendor and have a contract, you don't need a special use permit. Generally, if the project was initiated by the NPS, you don't need a special use permit. However, you should have a special use permit and a reproduction agreement if the project meets the criteria for special use. Refer to Section E.1 for more information.

2. *How do I calculate the costs of reproduction?*

To determine costs, identify all related activities. Calculate reproduction costs by determining the costs to:

- identify the object to be reproduced
- locate pertinent documentation in the accession and catalog folders

- research the objects
- document object measurements
- stabilize and conserve the object
- travel in association with the reproduction
- photograph the object
- purchase materials, supplies, and equipment, if appropriate
- transport the object or specimen to the contractor, if appropriate
- pay staff salaries and benefits associated with the reproduction
- supervise the contractor's access to the object or specimen
- inspect the prototype
- control quality during production
- pack and mail the reproduction
- produce captions and credits
- complete necessary paperwork, including outgoing loan forms and object condition reports
- manufacture actual prototype and reproduction, if appropriate
- furnish utilities
- determine environmental and cultural compliance
- use vehicles and other equipment

***You may recover costs only if you generate a special use permit.***

The NPS has the authority to recover and retain costs associated with making museum reproductions if a special use permit has been issued. Refer to *Reference Manual #53, Chapter 7: Management of Permit Fees*, for detailed information. You'll need to work with the park administrative and contracting officer to set up an appropriate park account to receive cost recovery funds. Refer to Section E.1 of this chapter.

3. *How should I choose a contractor or reproduction company?*

Consult your contracting officer, obtain recommendations from colleagues, and follow NPS contracting guidelines.

- Seek out contractors or companies that have made similar products, particularly museum reproductions, successfully. You don't want this to be a learning experience for the contractor.
- Find out as much as you can about the company. Determine whether the contractor or manufacturer has the equipment and capacity to make a high quality reproduction. Check on the contractor's work. Evaluate other items the contractor has reproduced.
- Establish that the quality of work is high and that the work is completed in a timely fashion.
- Evaluate staff qualifications and expertise.
- Make sure staff are trained to handle museum collections.
- Visit workshops, laboratories, and studios.
- Examine and evaluate the products the company has produced.
- Inspect the facility, if possible.
- Develop and evaluate a prototype.
- Determine if the company can satisfactorily deal with related legal and distribution issues.

4. *How do I judge the quality of reproductions?*

Compare the final product or prototype with the original. Determine whether the method of manufacture and the materials and craftsmanship meet the highest standards and the terms of your agreement.

- Are the designs and patterns, technique of manufacture, material, and color true to the original?
- Is the cast an exact replica of the original specimen? Take a close look at the two side-by-side to establish that the cast is truly identical to the original specimen in all but weight and material.
- Will the reproduction withstand normal wear and tear appropriate to its use, such as a reproduction chair that can be subjected to daily use for an extended period?

5. *What steps do I take to prevent collections from being damaged?*

Take the following steps:

- Always inspect the original museum object closely before initiating the work.
- Complete a detailed object condition report. (See *MH-II*, Chapter 5, Section C.3, Condition Reports and Photographs, and Figure 5.6, Object Condition Report Form 10-637. The form can also be printed from ANCS+.)

- Allow only NPS museum staff to handle an object that is not in good and stable condition.
- Supervise photography, measurement, and examination of the object.
- Take detailed record and condition photographs of the object.
- Make certain that the reproduction process and materials don't damage the object or specimen. Generally, only the making of a mold involves direct contact with the original. The specimen itself must be sturdy and its surface stable enough to withstand adherence and removal of molding material.
- Make sure the molding material is inert and will not harm the object or specimen.
- Make sure reproduction staff are trained to work with museum collections if the work is being done off-site.
- Monitor production.
- Visit the site regularly, if possible.

6. *Are there any special considerations for making a mold or a cast?*

Yes. The original object or specimen must be in stable condition in order to make a mold or a cast. Parks frequently make casts of paleontology specimens and less frequently of other items, such as lithic tools. Casts are used to replicate paleontological type specimens and rare or very large specimens. Molds may be made just of sections of an object or specimen to show tool marks on bone, use marks on lithic material, basketry impressions on ceramics, or fossil tracks in order to facilitate study. Molds and casts are also made of objects such as jewelry or sculpture. Casts often document particular features or relationships of bones before preparation is completed. Casts can also be made of a specimen after it is prepared. Molds and casts can be made of specimens in situ or in the laboratory.

To get an exact duplicate of the specimen, first make a mold. Then pour casting medium into the mold to get a cast of the original. The mold itself (latex peel, silicone rubber, or other material) and a cast of the mold can be produced and one or both made available for study.

Record all materials used in making a mold or cast, including release agents, mold-making material, and anything that might be in contact with the object. It's important to know how a mold or cast is going to be made because the material used to make a mold comes into direct contact with the specimen and the process directly affects the specimen. Some mold-making materials have been known to affect dating techniques. Latex molds have a finite life and will degrade and become unstable due to inherent vice. Repeated use of a specimen to create molds causes deterioration. Limit or deny access for molding or casting purposes if you determine that the process or materials will damage the specimen.

You should consult with the regional/SO curator, a conservator, and a park or local paleontologist or archeologist before authorizing a request to make a whole or partial cast of a NPS specimen.

7. *How do I mark and label the reproduction?* All reproductions done under reproduction agreement with the NPS must be clearly and indelibly identified as such to avoid any confusion with the original.

***Permanently mark each reproduction with “NPS Reproduction” or “National Park Service Reproduction.”***

If the reproduction is individually made, the artisan or craftsperson’s name and the date should be engraved, incised, or stamped on it in small characters in an unobtrusive but visible location. Casts and molds should be permanently marked as reproductions. This will ensure that the public, researchers, and museum staff won’t confuse the original with the reproduction.

8. *What should I do if an inappropriate reproduction is being made or marketed?* If you have a reproduction agreement with the reproducer and the reproduction isn’t accurate or adequately reproduced, insist on compliance in accordance with the terms of the agreement. Notify the reproducer in writing and require the problems be addressed. If you still aren’t satisfied, consult with the regional/SO curator and the NPS solicitor.

If you don’t have an agreement and the reproducer makes inappropriate claims, such as NPS endorsement of the reproduction, the NPS does have recourse. If this is the case, contact the regional/SO curator and the NPS solicitor for guidance on how to proceed.

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## H. Selected Glossary

**Copyright:** The Copyright Act of 1976 grants creators (for example, authors, artists, and architects) exclusive rights to their works, from the moment the work is in fixed form. Copyrights are a bundle of rights given to creators, including the economic rights to: reproduce the work, distribute copies by sale or transfer of ownership, publicly perform the work, prepare derivative works, and publicly display the works. While copyright is not available for any work of the U.S. Government, the Government can receive and hold copyrights transferred to it by third parties. A copyright-protected work can be designated by the “©” symbol. For additional information on copyright and visual artists’ rights refer to Chapter 2, Section C, Copyright Laws.

**Licensing:** Licensing is the formal granting of permission by the owner of an intellectual property right (“the licensor”) to another party (“the licensee”) to use the intellectual property, subject to certain terms and conditions. At present, the NPS doesn’t have licensing authority.

**Patent:** A patent is a grant given by the federal government to protect an invention. It gives the patent holder the exclusive right to exclude others from making, using, and selling the invention as defined in the claim. A patent gives the holder 14-year exclusive rights from the date of issue on a design invention, and 20-year exclusive rights from the date of filing for a utility invention. In order to use the patented invention, you have to get the patent holder’s permission. The U.S. Patent and Trademark Office reviews applications and issues patents.

**Registration:** Federal law provides that marks in use may be registered with the U.S. Patent and Trademark Office and/or with the U.S. Copyright Office. Registration provides additional rights beyond those that would be available

under the common law, such as jurisdiction in federal courts for infringement claims, greater damages and attorney fees, a presumption of ownership and validity, and rights in a greater geographical area.

**Trademark (or Servicemark):** A trademark is a word, name, logo, symbol, or device, or any combination thereof that is used to identify and distinguish the goods of one person from goods manufactured or sold by others and to indicate the source of the goods. Servicemarks are the same thing as trademarks except that they identify and distinguish services rather than products, such as real estate or consulting services. Marks may be licensed and assigned with certain caveats. A mark can only be assigned together with the goods of the business that is symbolized by the mark, for example clothing and perfumes associated with Chanel. When licensing others to use the mark, the owner must take measures to ensure that the licensee’s products or services retain the characteristics and level of quality that the public has come to associate with the mark. Marks are protected under state common law (designated by a “™”) and through federal registration (designated by a “®”) at the U.S. Patent and Trademark office.

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## J. List of Figures

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**Figure 5.1. Sample Wording to Include in a Contract between the NPS and a Contractor when a Reproduction is to be Made for In-house Use.** *Work with the park contracting officer to incorporate this wording into a contract.*

**SAMPLE WORDING**  
**to include in a contract between the**  
**NATIONAL PARK SERVICE**  
**and a**  
**CONTRACTOR**

This Contract is made and entered into between the \_\_\_\_\_(Park name), National Park Service, U.S. Department of the Interior, \_\_\_\_\_(address), hereafter referred to as "Park" and \_\_\_\_\_(Contractor), \_\_\_\_\_(address), referred to hereafter as "Contractor."

**PURPOSE:**

The Contractor will produce a reproduction of an object or specimen from the Park museum collection to be used in the Park's exhibition, interpretation, and education programs. The \_\_\_\_\_(reproduction, cast, adaptation, interpretation, or creation) that is made of \_\_\_\_\_(object or specimen), \_\_\_\_\_(catalog number) from the Park museum collections, or that is developed from specifications provided by Park will be produced exclusively for the Park.

**WITH REGARD** to the reproduction produced by Contractor for the Park, the undersigned Contractor agrees that the Contractor can't make additional reproductions of the object without the written permission of the Park. The Park is the sole judge of whether the reproduction meets the standards and specifications required by the Park. See attached specifications. Any copyrights of said reproductions will be the sole property of the NPS.

**1. MANNER OF REPRODUCTION**

- (a) The Park will provide the Contractor with photographs, dimensions, weight, and reasonable access to the objects, subject to the Park's access procedures outlined in the *Museum Handbook*, Part III, Museum Collections Use. The Park will permit the Contractor to make molds, casts, photographs, negatives, and drawings and to use other reasonable methods to reproduce in the Park's workroom or at such other place(s) as may be agreed upon by the parties.
- (b) The Contractor will pay all costs of making any molds, casts, photographs, negatives, or drawings, or using any other method of reproducing or adapting any object. This includes, but isn't limited to the cost of all materials, machinery, equipment, labor, services, and other expenses, including employees of the Park if needed and used, unless otherwise agreed to in writing.
- (c) The Contractor will ensure that due care is taken in reproducing and adapting any objects to protect and safeguard such works from damage, defacement, destruction, or any acts of the Contractor's employees or agents.
- (d) The Contractor will obtain or arrange to obtain, written permission to reproduce the item from the patent, trademark and license holder(s).
- (e) The Contractor will indemnify or arrange to indemnify the Park and hold it harmless from and against all loss and damage to the objects suffered or incurred.  
WHEREAS, the Park is willing to cooperate in the reproduction of such works and to grant the Contractor the right to use the name approved by the Park, the said policy of insurance shall be delivered to the Park before any objects or specimens are delivered to the Contractor and before the start of any copying, reproduction, photographing or any other authorized use.
- (f) The Contractor will pay insurance costs unless otherwise agreed to in writing. The Park, at its sole discretion, will select the form and type of insurance, amount of coverage, and the insurance carrier. The said policy of insurance shall be delivered to the Park before any objects are delivered to the Contractor and before the start of any copying, reproduction, photographing or any other authorized use by the Contractor.
- (g) In the event that one or more of the objects is removed from the Park by the Contractor to a place(s) agreed upon by the parties, all expenses of transportation, packing, mailing and insuring each object will be paid for by the Contractor unless otherwise agreed to in writing.

## **2. QUALITY CONTROL**

- (a) A “to-scale” model or drawing of each reproduction will be submitted to the Park for its written approval prior to its manufacture. The Park may, at its sole discretion, refuse to approve any model or drawing. [Optional: The Park will not approve a reproduction that weighs the same as the original object or specimen].
- (b) If the Park approves the model or drawing the Contractor will make every effort to ensure that the reproduction conforms to the approved model or drawing. The Park and its agents or employees will be permitted at any time(s) during normal business hours to inspect the process and the reproduction. If the Park determines in its sole discretion that any reproduction doesn’t conform to the approved model or drawing, at the request of the Park, the Contractor will modify the reproduction to the Park’s satisfaction, or shall cancel or destroy the same in a manner satisfactory to the Park.

## **3. TERMINATION**

- (a) This Contract is binding on the two parties for the period noted below. The Contractor will deliver a completed reproduction to the Park, subject to the Park’s approval and acceptance, no later than the termination date of this Contract.
- (b) On termination of this Contract all molds, casts, photographs, drawings, negatives, and other methods developed or used by the Contractor to make the reproduction of any objects will be disposed of in a manner satisfactory to the Park or returned to the Park.
- (c) In the event that the Park or the Contractor breaches any material terms or conditions of the Contract and fails to cure said breach within fourteen (14) days after written notice of such breach from the other party, this Contract may be cancelled by the other party. In the event of such cancellation, the parties shall have no further obligations under this Contract other than those, if any, which have accrued as to the termination date.
- (d) The Contractor can’t use the fact that he or she is a supplier for the NPS and the Park in any printed or electronic format without written permission of the NPS.

## **4. MARKING AND LABELING**

- (a) The Contractor must clearly and permanently mark each reproduction, including casts and molds with a “National Park Service Reproduction” or if there is not sufficient space, “NPS Reproduction.”
- (b) The maker’s name must be engraved, incised, or stamped on the reproduction in small characters in an unobtrusive but visible location.

## **5. TERM**

Contract initiation date: \_\_\_\_\_ Contract termination date: \_\_\_\_\_

## **6. SPECIFICATIONS**

See attached specifications (provided by the park).

**Figure 5.2. Sample Wording to Include in an Agreement Authorizing the Park Cooperating Association to Produce Three-dimensional Reproductions on Behalf of the Park.** *Work with the park contracting officer to incorporate this wording into a contract.*

**SAMPLE WORDING  
to include in a  
THREE-DIMENSIONAL REPRODUCTION  
AGREEMENT  
with the  
PARK COOPERATING ASSOCIATION**

This Agreement is made and entered into between the \_\_\_\_\_ (Park Name) "Park", National Park Service, U.S. Department of the Interior, \_\_\_\_\_ (Address), hereafter referred to as "Park", and the \_\_\_\_\_ (Cooperating Association), \_\_\_\_\_ (Address), hereafter referred to as "Cooperating Association."

**BACKGROUND AND OBJECTIVES**

The Park will increase access to National Park Service (NPS) museum collections and enhance the NPS goals of preservation, education, interpretation, and research by developing reproductions of NPS museum collections.

The Agreement authorizes the Cooperating Association to enter into agreements with third parties to develop park museum reproductions for sale and distribution. The agreement establishes terms and conditions that the Cooperating Association must include in all agreements between the Cooperating Association and third parties.

**AUTHORITY**

The following statutory authorities provide the legal basis for the NPS to enter into this agreement:

Organic Act of 1916, 16 USC 1 et seq.

Historic Sites Act of 1935, 16 USC 461-467, as amended

Museum Properties Management Act of 1955, 16 USC 18(f), as amended

Director's Order #32: Cooperating Associations

Director's Order #21: Donations and Fundraising

NPS Cooperative Agreement Authority (February 2, 1998)

Omnibus Consolidated Appropriations Act of 1997, PL 104e-208 (September 30, 1996), Title I, National Park Service, Administrative Provisions allows the NPS to *enter into cooperative agreements...for the purpose of carrying out NPS programs...*

**STATEMENT OF WORK**

The Park authorizes the Park Cooperating Association to manufacture and/or distribute reproductions of \_\_\_\_\_ (Objects/Specimens) described in \_\_\_\_\_ (Attachment) in accordance with terms and conditions outlined in this Agreement.

**NOW THEREFORE**, in consideration of the mutual promises set forth herein, the parties agree:

WHEREAS, the Cooperating Association is engaged in managing the manufacture of reproductions, adaptations, interpretations, creations, scale models, and casts of original museum objects and specimens, henceforth referred to as reproductions, and in the distribution and sale of such reproductions. It is mutually agreed as follows:

**1. PROCEDURES FOR THE COOPERATING ASSOCIATION TO ENTER INTO THIRD PARTY AGREEMENTS**

The Park agrees to allow the Cooperating Association to reproduce or arrange to reproduce, selected objects from the Park museum collections.

The Cooperating Association will seek written approval from the Park of all requests to make three-dimensional museum reproductions. The Park will provide written approval of the contractor/organization(s) selected to manufacture and distribute three-dimensional reproductions of Park museum objects and specimens. Upon Park approval, the Cooperating Association will enter into a separate agreement with the third party that includes all the

terms and conditions outlined in this Contract. The Cooperating Association and the third party will abide by all terms and conditions noted below.

## 2. NON-EXCLUSIVE RIGHTS

- (a) Subject to conditions set forth herein, the Park grants to the Cooperating Association and the approved organization/contractor(s) the non-exclusive, personal, and non-assignable right for the term of this Agreement to use the Park's name on the reproductions as well as in labeling, advertising, and promoting works from the Park's collections as noted in \_\_\_\_\_(Attachment). This right is granted on such other and additional works, if any, as the parties hereto from time to time agree upon in writing.
- (b) The Park grants to the Cooperating Association and the approved organization/contractor the non-exclusive right during the term of this Agreement to make or cause to be made, reproductions of Park objects or specimens that will be sold throughout the USA.

## 3. MANNER OF REPRODUCTION

- (a) The Park will provide the Cooperating Association and approved organization/contractor, with photographs, dimensions, weight, and reasonable access to the object or specimen, subject to the Park's access procedures outlined in the *Museum Handbook*, Part III, Museum Collections Use. The Park will permit the Cooperating Association and the organization/contractor to make molds, casts, photographs, negatives, and drawings and to use other reasonable methods to reproduce in the Park's workroom or at such other place(s) as may be agreed upon by the parties.
- (b) The Cooperating Association will pay or arrange to have paid, all costs of making any molds, casts, photographs, negatives, or drawings, or using any other method of reproducing or adapting any object. This includes, but isn't limited to the cost of all materials, machinery, equipment, labor, including employees of the Park if needed and used, services, insurance and other expenses.
- (c) The Cooperating Association will obtain or arrange to obtain, written permission to reproduce the item from the patent, trademark and license holder(s).
- (d) The Cooperating Association will ensure that due care is taken in reproducing and adapting any objects to protect and safeguard such works from damage, defacement, destruction, or any acts of its employees or agents.
- (e) The Cooperating Association will indemnify or arrange to indemnify the Park and hold it harmless from and against all loss and damage to the objects suffered or incurred, and adaptations as well as in labeling, advertising, and promoting the sale of such reproductions.

WHEREAS, the Park is willing to cooperate in the reproduction of such works and to grant the Cooperating Association or approved organization/contractor the right to use the name approved by the Park, the said policy of insurance shall be delivered to the Park before any objects or specimens are delivered to the approved organization/contractor and before the start of any copying, reproduction, photographing or any other authorized use.

- (f) The Cooperating Association or approved organization/contractor will pay insurance costs, unless otherwise agreed to in writing. The Park, at its sole discretion will select the form and type of insurance, amount of coverage, and the insurance carrier. The said policy of insurance shall be delivered to the Park before any objects are delivered to the Cooperating Association or approved organization/contractor.
- (g) In the event that one or more of the objects is removed from the Park by the Cooperating Association or approved organization/contractor to a place(s) agreed upon by the parties, all expenses of transportation, packing, mailing and insuring each object will be paid for by the Cooperating Association or approved organization/contractor, unless otherwise agreed to in writing.

## 4. QUALITY CONTROL

- (a) A prototype of each reproduction will be submitted to the Park for its written approval prior to its manufacture or sale. The Park may, at its sole discretion, refuse to approve any prototype. In this case the Cooperating Association or approved organization/contractor will not manufacture or sell such reproduction, and will cancel or destroy the same in a manner satisfactory to the Park. [Optional: The Park will not approve a prototype that weighs the same as the object or specimen.]
- (b) If the Park approves a prototype in writing, the Cooperating Association will make every effort to ensure that all reproductions conform to the approved prototype. The Park and its agents or employees will be permitted at any time(s) during normal business hours to examine production-line reproductions. If the Park determines in its sole discretion that any reproduction doesn't conform to its approved prototype, at the request of the Park, the

Cooperating Association will make sure that the organization/contractor shall refrain from manufacturing or selling such reproduction and shall cancel or destroy the same in a manner satisfactory to the Park.

- (c) The Cooperating Association will arrange to hand deliver or send by certified mail, to the Park, all advertising copy, promotional material and packaging to be used in connection with the sale or offering for sale of any reproduction. The Cooperating Association will ensure that the approved organization/contractor won't use any such copy, material or packaging unless and until approved in writing by the Park.
- (d) The Cooperating Association must make sure that all reproductions display advertising, labeling or other promotional material that indicate said reproductions are derived or copied from original works, objects or specimens in the Park museum collection. The Park must approve all copy in writing.
- (e) All reproductions must be marked with "National Park Service Reproduction" or if there is insufficient space, "NPS Reproduction" in a permanent impressed or incised mark.
- (f) A brief description and history of the original work or specimen, as described in the *Museum Handbook*, Part III, Chapter 5, Section C, Reproductions by NPS or under NPS Agreement, must be attached to each reproduction. The description should also refer to the weight of the original object or specimen. The Park will provide a description and history for each object.
- (g) The Cooperating Association will provide the Park with \_\_\_ copy(ies) of each reproduction of each object without charge.
- (h) The Cooperating Association will limit the number of reproductions to \_\_\_\_\_ (maximum) for the initial production quantity of each reproduction. All parties will agree, in writing, to the production of subsequent quantities.
- (i) During the term of this Agreement, any copyrights of said reproductions will be the sole property of the Cooperating Association. At the termination of this Agreement, all copyrights shall be assigned to the Park at no cost and free and clear of any lien or encumbrance.

## 5. BENEFITS

The Cooperating Association will convey benefits to the Park resulting from this activity in accordance with NPS *Cooperating Association Guideline*. Financial arrangements between the Cooperating Association and the third party must be developed independently of the Park.

## 6. TERMINATION

- (a) This Agreement is binding on the Park and the Cooperating Association for a period of three (3) years from the date first noted above. It will be renewed automatically for successive terms of one (1) year each year thereafter, unless terminated. Each party must notify the other in writing, of its intention to terminate this Agreement at the end of the current year. The termination notice must be received at least three (3) months prior to the end of the original termination of this Agreement or prior to the end of any said one (1) year renewal period.
- (b) On termination of this Agreement, all molds, casts, photographs, drawings, negatives, and other products developed or used by the Cooperating Association and selected organization/contractor to make said reproductions of objects or specimens shall be destroyed in a manner satisfactory to the Park or returned to the Park.
- (c) On termination of this Agreement, the Cooperating Association will use all reasonable efforts to avoid having an excessive inventory of reproductions on hand, and/or work in progress. Any work in progress on such termination, may be completed and sold by the Cooperating Association, provided this is done within \_\_\_\_\_ months after said termination date.
- (d) In the event that the Park or the Cooperating Association breaches any material terms or conditions of the Agreement and fails to cure said breach within fourteen (14) days after written notice of such breach, this Agreement may be cancelled by the other party. In the event of such cancellation, the parties shall have no further obligations under this Agreement other than those, if any, which have accrued as to the termination date. The Cooperating Association shall have no further right to manufacture or sell reproductions of the objects or specimens or to use the Park's name, except as provided herein.

## 7. LIABILITY

The Cooperating Association shall arrange to:

- (a) Pay the full value of all damages to the property of the United States caused by the organization, its representatives, or employees; and

- (b) Indemnify, save and hold harmless, and defend the United States against all fines, claims, damages, losses, judgments, and expenses arising out of, or from, any omission or activity of such organization, its representative, or employees.
- (c) Indemnify, save and hold harmless the United States against all fines, claims, damages, losses, judgments, and expenses arising out of, or from, any omission or activity of the manufacture, sale, and use of the reproduction(s).
- (d) Provide the NPS with certification of public and employee liability insurance coverage.

**8. NOTICE**

Any notice or demand relating to this Agreement must be made in writing and delivered to all parties. Delivery will be made to the respective addresses as specified herein unless such address has been changed by notice to the other party in writing.

**9. ASSIGNMENT**

This Agreement is personal to the Cooperating Association. It may not be assigned or otherwise transferred in any manner by operation or law or otherwise without the prior written consent of the Park. Consent is given or withheld at the Park's sole discretion.

**10. MODIFICATION**

This Agreement may not be modified or altered except in a written document signed by both parties.

**11. PAROL EVIDENCE**

This document contains the entire Agreement between parties. No statement, negotiation, promise, or inducement made by any party or any agent of any party that isn't included in this Agreement is valid or binding. Wherever possible each provision of this Agreement will be interpreted in such manner as to be effective and valid under applicable law. If any provision of this Agreement is prohibited or invalid under applicable law, such provision(s) will be ineffective to the extent of such prohibition or invalidity without invalidating the remaining provisions of this Agreement.

**12. KEY OFFICIALS**

*For the NPS:*

For the purposes of direction in contractual interpretation matters, contract coordination, daily operational matters, dispute resolution, or for modification to this Agreement, NPS shall be represented by the Superintendent, \_\_\_\_\_ (Park), \_\_\_\_\_ (Address, Telephone, and Facsimile).

*For the Cooperating Association:*

For purposes of liaison and direction in daily operational matters, Cooperating Association will be represented by \_\_\_\_\_ (Responsible official, Cooperating Association), \_\_\_\_\_ (Address, Telephone, and Facsimile).

All notices shall be given by U.S. certified mail, postage prepaid, to the above representatives at their indicated addresses.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the day and year first written above.

Superintendent

(Name) \_\_\_\_\_ Signature: \_\_\_\_\_

Cooperating Association (Responsible Official):

(Name): \_\_\_\_\_ Signature: \_\_\_\_\_

Date: \_\_\_\_\_

**Figure 5.3. Sample Wording to include in an Agreement between the Park and an Organization to Produce a Three-dimensional Reproduction for Sale and Distribution.**

**SAMPLE WORDING  
to include in a  
THREE-DIMENSIONAL REPRODUCTION  
AGREEMENT  
between the  
PARK  
and an  
ORGANIZATION**

This Agreement is made and entered into between the \_\_\_\_\_ (Park), National Park Service, U.S. Department of the Interior, \_\_\_\_\_ (address), hereafter referred to as "Park" and the \_\_\_\_\_ (Organization), \_\_\_\_\_ (address), hereafter referred to as "Cooperator."

**BACKGROUND AND OBJECTIVES**

The Park enters into an Agreement with the Cooperator to develop three-dimensional reproductions from the Park museum collections for sale and distribution. Three-dimensional reproductions enhance NPS goals of preservation, interpretation, and research by increasing access to the Park's museum collections.

**AUTHORITY**

The following statutory authorities provide the legal basis for the Park to enter into this agreement:

Organic Act of 1916, 16 USC 1 et seq.  
Historic Sites Act of 1935, 16 USC. 461-467, as amended  
Museum Properties Management Act of 1955, 16 USC 18(f), as amended  
Director's Order #32: Cooperating Associations  
Director's Order #21: Donations and Fundraising  
NPS Cooperative Agreement Authority (February 2, 1998)  
Omnibus Consolidated Appropriations Act of 1997, PL 104e-208 (September 30, 1996), Title I, National Park Service, Administrative Provisions allows the NPS to *enter into cooperative agreements...for the purpose of carrying out NPS programs...*

**STATEMENT OF WORK**

The Park authorizes the Cooperator to manufacture and/or distribute reproductions of \_\_\_\_\_ (Objects/Specimens) described in \_\_\_\_\_ (Attachment) in accordance with terms and conditions outlined in this Agreement.

**NOW THEREFORE**, in consideration of the mutual promises set forth herein, the parties agree:

The Cooperator is engaged in the making of reproductions, adaptations, interpretations, creations, scale models, and casts of original museum objects and specimens, henceforth referred to as reproductions, and in the distribution and sale of such reproductions. It is mutually agreed as follows:

**1. NON-EXCLUSIVE RIGHTS**

- (a) Subject to conditions set forth herein, the Park grants to the Cooperator the non-exclusive, personal, and non-assignable right for the term of this Agreement to use the Park's name on the reproductions as well as in labeling, advertising, and promoting works from the Park's collections as noted in \_\_\_\_\_ (Attachment). This right is granted on such other and additional objects or specimens, if any, as the parties hereto from time to time agree upon in writing.
- (b) The Park grants to the Cooperator the non-exclusive right for the period of \_\_\_\_\_ years, starting \_\_\_\_\_ and ending \_\_\_\_\_, to make or cause to be made, reproductions of Park objects or specimens that will be sold throughout the USA.

## 2. MANNER OF REPRODUCTION

- (a) The Park will provide the Cooperator with photographs, dimensions, weight, and reasonable access to the object or specimen, subject to the Park's access procedures outlined in the *Museum Handbook*, Part III, Museum Collections Use. The Park will permit the Cooperator to make molds, casts, photographs, negatives, and drawings and to use other reasonable methods to reproduce in the Park's workroom or at such other place(s) as may be agreed upon by the parties.
- (b) The Cooperator will pay all costs of making any molds, casts, photographs, negatives, drawings, or using any other method of reproducing or adapting any object. This includes, but isn't limited to the cost of all materials, machinery, equipment, labor, including employees of the Park if needed, services, insurance and other expenses.
- (c) The Cooperator will obtain written permission to reproduce the item from the patent, trademark and license holder(s).
- (d) The Cooperator will use due care in reproducing and adapting any objects to protect and safeguard such works from damage, defacement, destruction, or any acts of its employees or agents.
- (e) The Cooperator will indemnify the Park and hold it harmless from and against all loss and damage related to the reproductions, as well as in the labeling, advertising, and promoting of the sale of such reproductions. WHEREAS, the Park is willing to cooperate in the reproduction of such works and to grant the Cooperator the right to use the name approved by the Park, the said policy of insurance shall be delivered to the Park before any objects or specimens are delivered to the Cooperator and before the start of any copying, reproduction, photographing or any other authorized use by the Cooperator.
- (f) The Cooperator will pay insurance costs unless agreed to in writing. The Park, at its sole discretion will select the form and type of insurance, amount of coverage and the insurance carrier. The said policy of insurance shall be delivered to the Park before any objects are delivered to the Cooperator.
- (g) In the event that one or more of the objects is removed from the Park by the Cooperator to a place(s) agreed upon by the parties, all expenses of transportation, packing, mailing and insuring each object will be paid for by the Cooperator unless otherwise agreed to in writing.

## 3. QUALITY CONTROL

- (a) A prototype of each reproduction will be submitted to the Park for its written approval prior to its manufacture or sale. The Park may, at its sole discretion, refuse to approve any prototype. In this case the Cooperator will not manufacture or sell such reproduction, and will cancel or destroy the same in a manner satisfactory to the Park. [Optional: The Park will not approve a prototype that weighs the same as the object or specimen].
- (b) If the Park approves a prototype in writing, the Cooperator will make every effort to ensure that all reproductions conform to the approved prototype. The Park and its agents or employees will be permitted at any time(s) during normal business hours to examine production-line reproductions. If the Park determines in its sole discretion that any reproduction doesn't conform to its approved prototype, at the request of the Park, the Cooperator shall refrain from manufacturing or selling such reproduction and shall cancel or destroy the same in a manner satisfactory to the Park.
- (c) The Cooperator will hand deliver or send by certified mail, to the Park, all advertising copy, promotional material and packaging to be used in connection with the sale or offering for sale of any reproduction. The Cooperator won't use any such copy, material, or packaging unless and until approved in writing by the Park.
- (d) The Cooperator must display on all reproductions it makes, all advertising, labeling or other promotional material that said reproductions are derived or copied from original works, objects or specimens in the Park museum collection. The Park must approve all copy in writing.
- (e) All reproductions must be marked with "National Park Service Reproduction" or if there is insufficient space, "NPS Reproduction" in a permanent impressed or incised mark.
- (f) A brief description and history of the original work or specimen as described in the *Museum Handbook*, Part III, Chapter 5, Section C, Reproductions by NPS or under NPS Agreement must be attached to each reproduction. The description should also refer to the weight of the original object or specimen. The Park will provide a description and history for each object.
- (g) The Cooperator will provide the Park with \_\_\_ copy(ies) of each reproduction of each object without charge.
- (h) For the initial production quantity, the Cooperator will limit the number of reproductions to \_\_\_\_\_(maximum), for each object or specimen to be reproduced. Both parties will agree in writing to subsequent quantities.
- (i) During the term of this Agreement, any copyrights of said reproductions will be the sole property of the Cooperator. At the termination of this Agreement, all copyrights shall be assigned to the Park at no cost, and free and clear of any lien or encumbrance.

#### **4. COST RECOVERY**

The Park, in accordance with the Special Use Permit, will calculate recovery costs for the following activities: identifying the object(s) and specimen(s); locating documentation in accession and catalog folders; measuring and preparing the object; conserving the object; supervising contractor access; doing photography; purchasing materials and equipment, if appropriate; transporting item to vendor/contractor; overseeing the contractor or manufacturer; inspecting the prototype; controlling quality during production; packaging and mailing; producing captions and credits; and completing all necessary paperwork.

The Cooperator will transmit funds to cover all costs incurred by the Park in accordance with Director's Order #32.

#### **5. TERMINATION**

- (a) This Agreement is binding on the Park and the Cooperator for a period of three (3) years from the date first noted above. It will be renewed automatically for successive terms of one (1) year each year thereafter, unless terminated. Each party must notify the other in writing, of its intention to terminate this Agreement at the end of the current year. The termination notice must be received at least three (3) months prior to the end of the original termination of this Agreement or prior to the end of any said one (1) year renewal period.
- (b) On termination of this Agreement, all molds, casts, photographs, drawings, negatives, and other products developed or used by the Cooperator to make said reproductions of any objects or specimens shall be destroyed in a manner satisfactory to the Park or returned to the Park.
- (c) On termination of this Agreement, the Cooperator will use all reasonable efforts to avoid having an excessive inventory of reproduction on hand, and/or work in progress. Any work in progress on such termination, may be completed and sold by the Cooperator, provided this is done within \_\_\_\_\_ months after said termination date. All reproductions on hand as of the termination date will first be offered to the Park or the Park Cooperating Association at prices and discounts applicable to sales to the Park and the Park Cooperating Association.
- (d) In the event that the Park or the Cooperator breaches any material terms or conditions of the Agreement and fails to cure said breach within fourteen (14) days after written notice of such breach, this Agreement may be cancelled by the other party. In the event of such cancellation, the parties shall have no further obligations under this Agreement other than those, if any, which have accrued as to the termination date. The Cooperator shall have no further right to manufacture or sell reproductions of the objects or specimens or to use the Park's name, except as provided herein.
- (e) If the Cooperator files a petition under any federal or state bankruptcy or insolvency law seeking reorganization, arrangement or any relief there under, or a petition is filed against the Cooperator under any federal or state bankruptcy law; and such a petition isn't dismissed within in thirty (30) days after filing thereof, or the Cooperator makes an assignment for the benefit of creditors or seeks or consents to the appointment of a receiver, or a receiver is appointed for the Cooperator or its property and such appointment is not vacated within thirty (30) days after, or the Cooperator sells or otherwise transfers all or substantially all of its assets or business, or merges or consolidates with any other corporation or other entity or the management control of Cooperator is changed by whatever means, then this Agreement shall terminate automatically. The Cooperator will return all casts, molds, negatives, drawings, photographs, and other products of reproducing any object or specimen to the Park. The Cooperator will offer Park or the Cooperating Association all inventory of reproductions of objects or specimens then on hand at a price equal to the Cooperator's out of pocket costs incurred in connection with the production thereof. No trustee, receiver, assignee, transferee, or successor of the Cooperator shall have any rights under this Agreement.

#### **6. LIABILITY**

The Cooperator shall:

- (a) Pay the United States the full value of all damages to the property of the United States caused by such an organization, its representatives, or employees; and
- (b) Indemnify, save and hold harmless, and defend the United States against all fines, claims, damages, losses, judgements, and expenses arising out of, or from, any omission or activity of such organization, its representative, or employees.
- (c) Indemnify, save and hold harmless the United States against all fines, claims, damages, losses, judgements, and expenses arising out of, or from, any omission or activity of the manufacture, sale, and use of the reproduction(s).
- (d) Provide the NPS with certification of public and employee liability insurance coverage.

**7. NOTICE**

Any notice or demand relating to this Agreement must be made in writing and delivered to both parties. Delivery will be made to the respective addresses as specified herein unless such address has been changed by notice to the other party in writing.

**8. ASSIGNMENT**

This Agreement is personal to the Cooperator. It may not be assigned or otherwise transferred in any manner by operation of law or otherwise without the prior written consent of the Park. Consent is given or withheld at the Park's sole discretion.

**9. MODIFICATION**

This Agreement may not be modified or altered except in a written document signed by both parties.

**10. PAROL EVIDENCE**

This document contains the entire Agreement between parties. No statement, negotiation, promise, or inducement made by any party or any agent of any party that isn't included in this Agreement is valid or binding. Wherever possible each provision of this Agreement will be interpreted in such manner as to be effective and valid under applicable law. If any provision of this Agreement is prohibited or invalid under applicable law, such provision(s) will be ineffective to the extent of such prohibition or invalidity without invalidating the remaining provisions of this Agreement.

**11. KEY OFFICIALS**

*For the NPS:*

For the purposes of direction in contractual interpretation matters, contract coordination, daily operational matters, dispute resolution, or for modification to this Agreement, NPS shall be represented by the Superintendent, \_\_\_\_\_ (Park), \_\_\_\_\_ (Address, Telephone, and Facsimile).

*For the Cooperator:*

For purposes of liaison and direction in daily operational matters, the Cooperator will be represented by \_\_\_\_\_ (Responsible official, Cooperator), \_\_\_\_\_ (Address, Telephone and Facsimile).

All notices shall be given by U.S. certified mail, postage prepaid, to the above representatives at their indicated addresses.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the day and year first written above.

Superintendent

(Name) \_\_\_\_\_ Signature: \_\_\_\_\_

Date \_\_\_\_\_

Cooperator (Responsible Official)

(Name) \_\_\_\_\_ Signature: \_\_\_\_\_

Date: \_\_\_\_\_

**Figure 5.4. Sample Wording to Include in a Contract between the Park and a Contractor to Produce a Three-dimensional Reproduction for Sale and Distribution.**

**SAMPLE WORDING**  
for a  
**THREE-DIMENSIONAL REPRODUCTION**  
**CONTRACT**  
between the  
**PARK**  
and a  
**CONTRACTOR**

This Contract is made and entered into between the \_\_\_\_\_ (Park), National Park Service, U.S. Department of the Interior, \_\_\_\_\_ (address), hereafter referred to as "Park" and the \_\_\_\_\_ (Contractor), \_\_\_\_\_ (address), hereafter referred to as "Contractor."

**BACKGROUND AND OBJECTIVES**

The Park enters into a Contract with the Contractor to develop three-dimensional reproductions from the Park museum collections for sale and distribution. Three-dimensional reproductions enhance NPS goals of preservation, interpretation, and research by increasing access to the Park's museum collections.

**AUTHORITY**

The following statutory authorities provide the legal basis for the Park to enter into this Contract:

Organic Act of 1916, 16 USC 1 et seq.  
Historic Sites Act of 1935, 16 USC 461-467, as amended  
Museum Properties Management Act of 1955, 16 USC 18(f), as amended  
Director's Order #32: Cooperating Associations  
Director's Order #21: Donations and Fundraising  
NPS Cooperative Agreement Authority (February 2, 1998)  
Omnibus Consolidated Appropriations Act of 1997, PL 104e-208 (September 30, 1996), Title I, National Park Service, Administrative Provisions allows the NPS to *enter into cooperative agreements...for the purpose of carrying out NPS programs.*

**STATEMENT OF WORK**

The Park authorizes the Contractor to manufacture and/or distribute reproductions of \_\_\_\_\_ (Objects/Specimens) described in \_\_\_\_\_ (Attachment) in accordance with terms and conditions outlined in this Contract.

**NOW THEREFORE**, in consideration of the mutual promises set forth herein, the parties agree:

The Contractor is engaged in the making of reproductions, adaptations, interpretations, creations, scale models, and casts of original museum objects and specimens, henceforth referred to reproductions, and in the distribution and sale of such reproductions. It is mutually agreed as follows:

**1. NON-EXCLUSIVE RIGHTS**

- (a) Subject to conditions set forth herein, the Park grants to the Contractor the non-exclusive, personal, and non-assignable right for the term of this Contract to use the Park's name on the reproductions as well as in labeling, advertising, and promoting works from the Park's collections as noted in \_\_\_\_ (Attachment). This right is granted on such other and additional objects or specimens, if any, as the parties hereto from time to time agree upon in writing.
- (b) The Park grants to the Contractor the non-exclusive right for the duration of \_\_\_\_\_ years, starting \_\_\_\_\_ and ending \_\_\_\_\_, to make or cause to be made, reproductions of Park objects or specimens that will be sold throughout the USA.

## 2. MANNER OF REPRODUCTION

- (a) The Park will provide the Contractor with photographs, dimensions, weight, and reasonable access to the object or specimen, subject to the Park's access procedures outlined in the *Museum Handbook*, Part III, Museum Collections Use. The Park will permit the Contractor to make molds, casts, photographs, negatives, and drawings and to use other reasonable methods to reproduce the object or specimen in the Park's workroom or at such other place(s) as may be agreed upon by the parties.
- (b) The Contractor will pay all costs of making any molds, casts, photographs, negatives, or drawings, or using any other method of reproducing or adapting any object. This includes, but isn't limited to the cost of all materials, machinery, equipment, labor, including employees of the Park if needed and used, services, insurance and other expenses.
- (c) The Contractor will obtain written permission to reproduce the item from the patent, trademark and license holder(s).
- (d) The Contractor will use due care in reproducing and adapting any objects and specimens to protect and safeguard such items from damage, defacement, destruction, or any acts of his or her employees or agents.
- (e) The Contractor will indemnify the Park through an insurance policy and hold the Park harmless from and against all loss and damage to the objects and specimens suffered or incurred, as well as in the labeling, advertising, and promoting of the sale of such reproductions.

WHEREAS, the Park is willing to cooperate in the reproduction of such items and to grant the Contractor the right to use the name approved by the Park, the said policy of insurance shall be delivered to the Park before any objects or specimens are delivered to the Contractor and before the start of any copying, reproduction, photographing or any other authorized use by the Contractor.

- (f) The Contractor will pay insurance costs unless agreed to in writing. The Park, at its sole discretion will select the form and type of insurance, amount of coverage, and the insurance carrier. In the event that one or more of the objects is removed from the Park by the Contractor to a place(s) agreed upon by the parties, all expenses of transportation, packing, mailing, and insuring each object will be paid by the Contractor.
- (g) In the event that one or more of the objects is removed from the Park by the Contractor to a place(s) agreed upon by the parties, all expenses of transportation, packing, mailing and insuring each object will be paid for by the Contractor unless otherwise agreed to in writing

## 3. QUALITY CONTROL

- (a) A prototype of each reproduction will be submitted to the Park for its written approval prior to its manufacture or sale. The Park may, at its sole discretion, refuse to approve any prototype. In this case the Contractor will not manufacture or sell such reproduction, and will cancel or destroy the same in a manner satisfactory to the Park. [Optional: The Park will not approve a prototype that weighs the same as the object or specimen.]
- (b) If the Park approves a prototype in writing, the Contractor will make every effort to ensure that all reproductions conform to the approved prototype. The Park and its agents or employees will be permitted at any time(s) during normal business hours to examine production-line reproductions. If the Park determines in its sole discretion that any reproduction doesn't conform to its approved prototype, at the request of the Park, the Contractor shall refrain from manufacturing or selling such reproduction and shall cancel or destroy the same in a manner satisfactory to the Park.
- (c) The Contractor will hand deliver or send by certified mail, to the Park, all advertising copy, promotional material and packaging to be used in connection with the sale or offering for sale of any reproduction. The Contractor won't use any such copy, material, or packaging unless and until approved in writing by the Park.
- (d) The Contractor must display on all reproductions it makes, all advertising, labeling or other promotional material that said reproductions are derived or copied from original works, objects or specimens in the Park museum collection. The Park must approve all copy in writing.
- (e) All reproductions must be marked with "National Park Service Reproduction" or if there is insufficient space, "NPS Reproduction" in a permanent impressed or incised mark.
- (f) A brief description and history of the original work or specimen, as described in the *Museum Handbook*, Part III, Chapter 5, Section C, Reproductions by NPS or under NPS Contract, must be attached to each reproduction. The description should also refer to the weight of the original object or specimen. The Park will provide a description and history for each object.
- (g) The Contractor will provide the Park with \_\_\_ copy(ies) of each reproduction of each object without charge.
- (h) For the initial production quantity, the Contractor will limit the number of reproductions to \_\_\_\_\_(maximum) for each object or specimen to be reproduced. Both parties will agree in writing to subsequent quantities.

- (i) During the term of this Contract, any copyrights of said reproductions will be the sole property of the Contractor. At the termination of this Contract, all copyrights shall be assigned to the Park at no cost, and free and clear of any lien or encumbrance.

#### **4. COST RECOVERY**

The Park, in accordance with the Special Use Permit, will calculate recovery costs for the following activities: identifying the object(s) and specimen(s); locating documentation in accession and catalog folders; measuring and preparing the object; conserving the object; supervising contractor access; doing photography; purchasing materials and equipment, if appropriate; transporting item to vendor/contractor; overseeing the contractor or manufacturer; inspecting the prototype; controlling quality during production; packaging and mailing; producing captions and credits; and completing all necessary paperwork.

The Contractor will transmit funds to cover all costs incurred by the Park in accordance with Director's Order #32.

#### **5. TERMINATION**

- (a) This Contract is binding on the Park and the Contractor for a period of three (3) years from the date first noted above. It will be renewed automatically for successive terms of one (1) year each year thereafter, unless terminated. Each party must notify the other in writing, of its intention to terminate this Contract at the end of the current year. The termination notice must be received at least three (3) months prior to the end of the original termination of this Contract or prior to the end of any said one (1) year renewal period.
- (b) On termination of this Contract, all molds, casts, photographs, drawings, negatives, and other products developed or used by the Contractor to make said reproductions of any objects or specimens shall be destroyed in a manner satisfactory to the Park or returned to the Park.
- (c) On termination of this Contract, the Contractor will use all reasonable efforts to avoid having an excessive inventory of reproduction on hand, and/or work in progress. Any work in progress on such termination, may be completed and sold by the Contractor, provided this is done within \_\_\_\_\_ months after said termination date. All reproductions on hand as of the termination date will first be offered to the Park or the Park Cooperating Association at prices and discounts applicable to sales to the Park and the Park Cooperating Association.
- (d) In the event that the Park or the Contractor breaches any material terms or conditions of the Contract and fails to cure said breach within fourteen (14) days after written notice of such breach, this Contract may be cancelled by the other party. In the event of such cancellation, the parties shall have no further obligations under this Contract other than those, if any, which have accrued as to the termination date. The Contractor shall have no further right to manufacture or sell reproductions of the objects or specimens or to use the Park's name, except as provided herein.
- (e) If the Contractor files a petition under any federal or state bankruptcy or insolvency law seeking reorganization, arrangement or any relief thereunder, or a petition is filed against the Contractor under any federal or state bankruptcy law; and such a petition isn't dismissed within in thirty (30) days after filing thereof, or the Contractor makes an assignment for the benefit of creditors or seeks or consents to the appointment of a receiver, or a receiver is appointed for the Contractor or its property and such appointment is not vacated within thirty (30) days after, or the Contractor sells or otherwise transfers all or substantially all of its assets or business, or merges or consolidates with any other corporation or other entity or the management control of Contractor is changed by whatever means, then this Contract shall terminate automatically. The Contractor will return all casts, molds, negatives, drawings, photographs, and other products of reproducing any object or specimen to the Park. The Contractor will offer the Cooperating Association all inventory of reproductions of objects or specimens then on hand at a price equal to the Contractor's out of pocket costs incurred in connection with the production thereof. No trustee, receiver, assignee, transferee, or successor of the Contractor shall have any rights under this Contract.

#### **6. LIABILITY**

The Contractor shall:

- (a) Pay the United States the full value of all damages to the property of the United States caused by such Contractor, his or her representatives, or employees; and
- (b) Indemnify, save and hold harmless, and defend the United States against all fines, claims, damages, losses, judgements, and expenses arising out of, or from, any omission or activity of the Contractor, his or her representative, or employees.

- (c) Indemnify, save, and hold harmless the United States against all fines, claims, damages, losses, judgements, and expenses arising out of, or from, any omission or activity of the manufacture, sale, and use of the reproduction(s).
- (d) Provide the NPS with certification of public and employee liability insurance coverage.

**7. NOTICE**

Any notice or demand relating to this Contract must be made in writing and delivered to both parties. Delivery will be made to the respective addresses as specified herein unless such address has been changed by notice to the other party in writing.

**8. ASSIGNMENT**

This Contract is personal to the Contractor. It may not be assigned or otherwise transferred in any manner by operation or law or otherwise without the prior written consent of the Park. Consent is given or withheld at the Park's sole discretion.

**9. MODIFICATION**

This Contract may not be modified or altered except in a written document signed by both parties.

**10. PAROL EVIDENCE**

This document contains the entire Contract between parties. No statement, negotiation, promise or inducement made by any party or any agent of any party that isn't included in this Contract is valid or binding.

Wherever possible each provision of this Contract will be interpreted in such manner as to be effective and valid under applicable law. If any provision of this Contract is prohibited or invalid under applicable law, such provision(s) will be ineffective to the extent of such prohibition or invalidity without invalidating the remaining provisions of this Contract.

**11. KEY OFFICIALS**

*For the NPS:*

For the purposes of direction in contractual interpretation matters, contract coordination, daily operational matters, dispute resolution, or for modification to this Contract, NPS shall be represented by the Superintendent, \_\_\_\_\_ (Park), \_\_\_\_\_ (Address, Telephone, and Facsimile).

*For the Contractor:*

For purposes of liaison and direction in daily operational matters, the Contractor will be represented by \_\_\_\_\_ (Responsible individual), \_\_\_\_\_ (Address, Telephone, and Facsimile).

All notices shall be given by U.S. certified mail, postage prepaid, to the above representatives at their indicated addresses.

IN WITNESS WHEREOF, the parties hereto have executed this Contract on the day and year first written above.

Superintendent

(Name) \_\_\_\_\_ Signature: \_\_\_\_\_

Date \_\_\_\_\_

Contractor

(Name) \_\_\_\_\_ Signature: \_\_\_\_\_

Date: \_\_\_\_\_