

PHOTO LICENSE AGREEMENT - EXISTING WORKS - NONEXCLUSIVE

This agreement is made and entered into by and between **Western Pacific Railroad Museum** ("Licensor") and **David G. Healy-Artist** ("Licensee") on the 1st day of May 2012 (the "Effective Date").

NOW, THEREFORE, in consideration of the promises and mutual covenants and agreements set forth herein, the parties agree as follows:

1. DESCRIPTION OF WORK BEING LICENSED: Licensee is awarded unrestricted and non-exclusive photographic access to Western Pacific Railroad Museum, Portola, California 96122. Licensee is granted authority to photograph railroad related equipment, including rolling stock, parts of rolling stock, any railroad related equipment, artifacts located on and around the railroad museum property. Scheduled photography sessions include: before; during and after museum operation hours. Weekends and weekdays, both closed and open to the public times. Photographic session(s) for the purpose of acquiring large format, non-motion (video) digital, photographic imagery of above said railroad operation related equipment. Digital photographic acquisition formats: JPEF, PNG, TIF and RAW. ("Licensee") will provide, at his cost all camera(s), lights, tripods and all other necessary equipment to acquire original master digital photographs.
2. DESCRIPTION OF PROJECTS OR PRODUCTS TO WHICH LICENSE APPLIES: Licensee (the "Project") will digitize, in computer format, acquired photographic works: locomotives (working not working), all forms of rail cars, cabooses, obscure railyard material and products, obscure and not obscure, indoor and out of door, acquired during access to Western Pacific Railroad Museum, Portola, California 96122. Selected photographs will be digitally altered to, example: line drawing--in pencil (black and color), ink and or chalk (black, white, color) imagery. Other imagery altered to: oil, pastel and or watercolor imagery. Licensee has 100% control covering selection of digitized imagery to be post processed, and full control of, artistic decisions. Licensee will post, FOR SALE, in the form of *limited edition art prints* of said post-processed imagery to: www.aroundtherailyard.com (proposed website title). Licensee exclusively owns and operates proposed website. Limited edition prints of digitized imagery, post-produced (limited edition prints as formally defined in the recognized art world) will be printed, matted and signed by the artist ("Licensee") and sold in various, frame-able sizes, both with and without mattes. To be selected, finished prints will be sold on a one-at-a-time or as a collection series (designated groupings) basis.
3. GRANT OF RIGHTS: For good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Licensor hereby grants to Licensee a nonexclusive license to photograph reproduce, digitize, edit, transpose photographic images to finished artwork prints (in varying sizes) (without diminishing the integrity or compromising the images), publicly perform, publicly display, distribute and sell the Work in the Project. This license shall include the right to use the Work of the Project for advertising and promotion related thereto. The rights granted herein shall not confer in Licensor any rights of ownership in the Project, including, without limitation, the copyright thereto, all of which shall be and remain the exclusive property of Licensee.

4. CREDIT: In consideration of the rights granted to Licensee, and provided the Work is used in the Project, Licensee agrees to give Licensor credit in writing in the Project in substantially the following form: (1) a website link to Western Pacific Railroad Museum, Portola, California 96122 (address to be determined); (2) Western Pacific Railroad Museum, Portola, California 96122 (WPRRM-WPLives) website recognition, courtesy and thanks for access to railroad related museum equipment and artifacts; sales, marketing and support for all materials. (3) all marketing material for (print, video, film websites) will carry special notation: "original photography courtesy of: Western Pacific Railroad Museum, Portola, California 96122 .

Any inadvertent failure to provide credit shall not be deemed a breach of this Agreement.

5. LICENSE FEE: In further consideration of the rights granted to Producer herein, Producer shall pay to Licensor the sum of Thirty (30%) after post production costs, or NET of sold artwork proceeds. Payable by check on quarterly (4 times yearly) basis. Payable dates: month ending, March; June; September and December.

6. TERM. This license begins on 1st day of May 2012 and ends on 1st day of June 2015.

7. WARRANTIES. Licensor represents and warrants that:

(a) The Work ("The Western Pacific Railroad Museum, Portola, California 96122") was created solely by him, non-profit organization corporation, his employees/volunteers during the course of their work, or independent contractors who assigned all right, title and interest worldwide in their work to the Licensor or Licensor has obtained sufficient rights to grant the photographic license in Section 3;

(b) Licensor is the owner of all right, title and interest in the tangible forms of the Work ("Western Pacific Railroad Museum, Portola, California 96122 ") and all intellectual property rights protecting said or has the right to grant the license in Section 3. The Work and the intellectual property rights protecting the Work (Western Pacific Railroad Museum, Portola, California 96122") are free and clear of all encumbrances, including, without limitation, security interests, licenses, liens, charges or other restrictions which conflict with the license in Section 3;

(c) The use, public display, public performance, reproduction, distribution, or modification of the Work ("Western Pacific Railroad Museum, Portola, California 96122 ") does not and will not defame any third parties or violate the rights of any third parties in the Work including, but not limited to, copyrights, trademarks, publicity and privacy;

(d) The Work is not in the public domain;

(e) The grant of the licenses in Section 3 to the Work does not require the payment of any fees to any third parties (including, without limitation, SAG, AFTRA, or Writer's Guild fees);

(f) Licensor has full power and authority to make and enter into this Agreement.

8. INDEMNIFICATION. Licensor agrees to defend, indemnify, and hold harmless Licensee and their officers, directors, sublicensees, employees and agents, from and against any claims, actions or demands, including without limitation reasonable legal and accounting fees, alleging or resulting from the breach of the warranties in Section 7. Licensee shall provide notice to Licensor promptly of any such claim, suit, or proceeding and shall assist Licensor, at Licensor's expense, in defending any such claim, suit or proceeding.

9. GENERAL PROVISIONS. This Agreement will be governed by and construed in accordance with the laws of the United States and the State of California as applied to agreements entered into and to be performed entirely within that state between residents of that state. This Agreement, including any Exhibits to this Agreement, constitutes the entire agreement between the parties relating to this subject matter and supersedes all prior or simultaneous representations, discussions, negotiations, and agreements, whether written or oral. The Agreement may not be modified except by written instrument signed by both parties. No term or provision hereof will be considered waived by either party, and no breach excused by either party, unless such waiver or consent is in writing signed on behalf of the party against whom the waiver is asserted. No consent by either party to, or waiver of, a breach by either party, whether express or implied, will constitute a consent to, waiver of, or excuse of any other, different, or subsequent breach by either party. Licensee may assign its rights and obligations under this Agreement. This Agreement will be for the benefit of Licensee's successors and assigns, and will be binding on Licensor's heirs, legal representatives and permitted assignees. If any dispute arises between the parties with respect to the matters covered by this Agreement which leads to a proceeding to resolve such dispute, the prevailing party in such proceeding shall be entitled to receive its reasonable attorneys' fees, expert witness fees and out of pocket costs incurred in connection with such proceeding, in addition to any other relief to which it may be entitled. All notices, requests and other communications required to be given under this Agreement must be in writing, and must be mailed by registered or certified mail, postage prepaid and return receipt requested, or delivered by hand to the party to whom such notice is required or permitted to be given. Any such notice will be considered to have been given when received, or if mailed, five (5) business days after it was mailed, as evidenced by the postmark. The mailing address for notice to either party will be the address shown on the signature page of this Agreement. Either party may change its mailing address by notice as provided by this Section. The following provisions shall survive termination of this Agreement: Sections 7 and 8.

This Agreement is effective as of the date _____.

By:

By:

Typed name

Typed name

Title

Title

Address

Address

04.04.2012

Stuart Haber,

Here's the "project brief" regarding a limited edition print (art; rail art specifically) website, I spoke to you about.

Also included is a 200-exclusive photograph license agreement regarding shooting still photos on the museum property.

Any questions, or a need for me to present the concept to your fellow board members, let me know!

I can be reached at the HP yard (my shift T, W, Th, Fr's) 530-601-1058 during the above times, and most other times!

David G. Healy

P.S. a few samples (paper: museum grade archival quality)

Project Brief

[www.aroundtherailyard.com website]

Introduction

- To create a website that will display for sale, signed and numbered limited edition art prints. Original artwork copyright retained by David G. Healy Artist), artistic media renderings include: pencil (b&w and color), watercolor, chalk, pastel and oil mediums) highlighting sights, equipment and rail yard artifacts as seen in and around the typical railroad yard.

Aim/Vision

- Everything, including railroad equipment has a focus and at one time specific use, some railroad museums adequately present said equipment. The aim for this website is to focus and create representative artwork referencing these pieces of equipment, known, and little known artifacts. To present said railroad equipment and artifacts in artistic manner. To render and memorialize said pieces of equipment, as they stand today. In short: to breath life into the artifacts in a unique way. And, sell same artwork, signed and numbered limited edition prints through the www.aroundtherailyard.com.

Outcomes

- With advances in the desktop computer /printer/museum archival paper world, time is right for presenting said railroad equipment and railyard artifacts in proper artistic mediums.
- Provide professional level digital photography of said equipment and artifacts, which will act as the basis for artwork produced i.e., rail-yard artifacts, locomotives, cabooses, freight cars, tracks, switches, tracks, operating equipment (old and new), etc.
- Benefits: raise the awareness level of what these pieces of equipment and artifacts are. To give them recognition of their rightful place in the evolution of this country's railroad system. Sell, for profit artistic renderings depicting same at the same time cross promoting (via the website www.aroundtherailyard.com) the Western Pacific Railroad Museum located in Portola Ca. 96122. A sharing of profits between artist and same museum, of said artwork soldS.

Scope of Project

- To digitally photograph railroad equipment and artifacts, transpose into classic, recognized artistic mediums (pencil, chalk, pastels, ink and oil). The outcome of said art project work: signed and numbered collector edition prints for sale at one specific website, located at: www.aroundtherailyard.com (owned, operated and maintained by: David G. Healy Artist).
- The project also includes niche marketing and various web promotional techniques. A new railroad art market will be explored, utilizing various forms of artistic mediums.

Objectives, Outputs, Targets

- Professionally photographed, during daylight hours, over the course of various days (days to be determined), during closed/open museum hours, railroad equipment and artifacts located within the Western Pacific Railroad Museum, Portola Ca. 96122. Digitization of said imagery, create various artistic renderings in various artistic mediums of said digitized imagery. Create a unique form of railroad art, for sale in varying image size, complete with mounting mattes. For sale exclusively, on one website, www.aroundtherailyard.com.

Project Success Criteria

- Through www.aroundtherailyard.com, and the profitable sale of site artwork -- which in turn cover proposed website project investment, including, but not limited to: artist time and material costs is the most important in determining success.
- Advancing turnstile (foot) or website traffic to the Western Pacific Railroad Museum, Portola, Ca. 96122 ranks a close second.
- Acclaim and referrals by rail affectionados (both industry known and unknown) as to the viability of this new rail art medium and its website.

Key Assumptions

- The new website www.aroundtherailyard.com is addressing, new railroad art forms. Artist assumptions as to whether success is measured through finished art sales are modest, modest at best. Planning, layout and design of a *art gallery*type website, in a professional manner, is assured. No actual railroad related artifacts will be sold on this site. One artist portfolio and work **ONLY**.
- The subject artwork is NOT a guarantee the website will be profitable, based on sales alone.
- The level of confidence the website will be successful the project author rates at 60% at this time.

Constraints

- The internet market for artwork of ALL types is weak at best, especially the signed and numbered, limited editions, print markets. Caution is the watchword.
- The overall U.S. economy plays a roll. Sales expectation should be realistic, although the finished artwork itself will generate sales, cross promoting the WPRR museum will act as an direct asset.

External Project Factors

- The economy, the economy, the ECONOMY. Dwindling, individual expendable cash for purchases.

Work Strands and Priorities (David G. Healy Artist)

- Acquire FUJI color digital camera or similar;
- Contract Western Pacific Railroad Museum for non-exclusive museum site photographic rights;
- Produce original in-camera imagery: minimum resolution 4000x3000 2k TIFF format;
- Acquire professional artistic software for the MAC OS platform;
- Acquire image resize software for imagery up to and including 4k imagery (fine art poster size)
- Build website, acquire server space, upload and monitor daily site traffic application.
- Order placement turnaround within 7-10 days.

(Inter) dependencies

- To the best of the author's knowledge there are no competing individuals acquiring imagery-photographing at the Western Pacific Railroad Museum in like manner and style as www.aroundtherailyard.com proposes. www.aroundtherailyard.com does not and will not compete with other sites, there are no 'competitive' contingencies, or case specific marketing strategies planned. Sales generated by superior, finished products (matted artwork).

Key Issues

- Acquiring a signed non-exclusive photographic contract with the Western Pacific Railroad Museum (as presented in this package, separate document).
- The project will be managed by project author, David G. Healy. Mr. Healy will be responsible for all principle photography, scheduling and coordination with the museum for same. Mr. Healy will create ALL artwork appearing on the site, with no (zero), cost to the museum.
- Mr. Healy will produce, print and sign all limited edition prints (proposed for sale).
- Mr. Healy will create the www.aroundtherailyard.com website and contract for server space at no (zero), cost to the museum.
- Staging equipment (for photographic purposes) of any and all railroad equipment, new or old, located on museum property will not required. On location photography is ad hoc, what you see is what you photograph. No personal clearances or release forms required. No identifiable museum personnel or museum visitor will appear in final artwork produced.

Structure (i.e., organization, governance and accountability)

- David G. Healy Artist owns and operates AroundTheRailYard (web-only) art gallery, formatted and (to be) presented at: www.aroundtherailyard.com (yet to be uploaded to the web, anticipated web launch 06.15.2012).
- David G. Healy Artist is the sole owner of this website endeavor.
- David G. Healy Artist is fully insured: liability, accident, health.
- David G. Healy Artist is not affiliated with any other museum or web related railroad art organization or group.
- David G. Healy Artist has sole discretion and responsibility for choosing selected rail-yard artwork. Said artwork derived from imagery photographed by David G. Healy Artist, imagery originating at the Western Pacific Railroad Museum, Portola Ca., 96122.
- David G. Healy Artist will request in writing or by phone with the museum's designated representative at this moment: unknown), 6ea. 3hour photo shoot sessions (at times determined by the artist, natural lighting considerations) on museum property site, and the immediate surrounding museum area. Each photo session will include times before, during and after the museum is opened for the business day. During these sessions, the David G. Healy Artist will require no assistance nor direction from the museum or museum personnel.

Resources

Funding

- Initial funding for website creation, uploading and server charges, in-camera digital photography (museum location), computer equipment and software, high-end printers, museum grade ink and paper, signed and numbered prints, matte and mounting, and distribution mailing costs will be borne by David G. Healy Artist. In short: the David G. Healy Artist incurs ALL project costs, including art and art preparation, website and website monthly maintenance costs. The Western Pacific Railroad Museum incurs no (ZERO) project costs.

Staff

- One (1) staff: David G. Healy Artist, PO Box 2046, Portola, Ca., 96122 (530.601.1058) email: shake_aeffects@yahoo.com. On occasion, a single assistant may be required for some on-site location photography, the museum website/artist museum contact (yet to be determined) will be made aware of the necessity seven (7) days prior to the photo shooting session.

Other

- Western Pacific Railroad Museum initial contact:
 - Railroad Engineer Steve Habeck (UPRR) 1-530-927-7187 (cell)

Stakeholder(s)

- David G. Healy Artist, www.aroundtherailyard.com (temporary website working title) creator-owner, finished art copyright holder.
- Western Pacific Railroad Museum Board of Directors, Portola, Ca. 96122.
- Feather River Rail Society, Board of Directors (?).

Communications

- Communications prior to website launch of 06.15.2012 (estimate date) will be on adhoc basis, or, as needed basis. Potential events appearing to delay scheduled website launch will be brought to the attention of the designated/assigned museum contact. Communications after website launch will be on a 10th of the month quarterly basis. At that designated time, unit artwork sales will be reviewed, a check presented to the museum reflecting their percentage (xx%) of project sales.
- David G. Healy Artist, will be available to the museum directors and/or designated representative to answer any project and/or accounting related questions.

(eof)

04-01-2012

Addendum:

www.aroundtherailyard.com website

- I. Aroundtherailyard gallery (to be located at www.aroundtherailyard.com) is an exclusive original railroad art (oil, chalk, pencil, watercolor and pastel rendering mediums) website. Displaying unique, and not so unique railroad yard artifacts and equipment. For sale on the aforementioned website, signed and numbered, railyard only limited edition prints. There will be no other railroad related items for sale, or promoted on this website. However, an exclusive link to the Western Pacific Railroad Museum website and on-line store, Portola, Ca., will be provided on the links page).

- II. The above website gallery structure will follow the line of a Smithsonian Museum type art gallery, included in the website mapping, but not limited to:
 - 23 Pages - 108 Sub-pages:** Homepage, about, contact form, uniqueness of art, new art unit update page, WPRR museum directors comment page (from main menu), WPRR museum director[s] selected links page, custom payment page with Paypal, gallery directory, 9 galleries, slideshow, thank you pages. HTML page for each gallery image. HTML5 ready.

 - Features:** Paypal cart gallery and no-cart gallery pages included, homepage 8 image Flash changer, auto watermarks (artist copyright), removable, continuous and replacable mp3 sound. 'Detect' included for optimal viewing on iPod, iPad and other mobile devices. Javascript checkout page.

 - Details:** HTML, JPG images, Flash header. 108 gallery images (expandable). Photographer and artist design.

- III. Finished limited edition prints will be in the following dimensions: 3x5, 5x7, 8x10, 11x14 on flat matte, museum grade, archive paper.*Mattes will be available in various sizes, sized for the most common picture frames. Limited edition prints will be signed then matted, the print/matte will then be signed by the artist and numbered. Referral for framing upon request. Shipping will follow immediately. Shipping will be within 14 days of initial PayPal order. All order shipments and drop order shipments will be insured by the artist. **NO** returns, all sales are **FINAL**.

- IV. No other artist and/or their work will be displayed for sale on this website, all original artwork presented for sale at www.aroundtherailyard.com will be created exclusively by David G. Healy for the aroundtherailyard gallery.
 - a) see attached website mock-up front page, all galleries page, 1 of 9 gallery pages, paypal/non-paypal order pages and one image detail page.

 - b) see 8x10 sample, signed and numbered art page (color pencil)

***Special size, or custom print size orders will be entertained, sizes up to and including, poster size 48"x36". (Giclee museum quality prints)**

AROUND - WEBSITE

WEBSITE GALLERY "ART"
PRINTS PAGE W/ PAYPAL

YOUR WEBSITE TITLE

GALLERY 2

The template features an optional gallery extension to add a grid to your shopping cart with individual, title template
links for images in a gallery and can be expanded to both the main gallery and images in your cart.

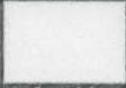


Image 2-1



Image 2-2



Image 2-3



Image 2-4

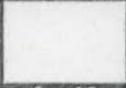


Image 2-5

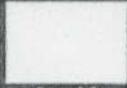


Image 2-6



Image 2-7



Image 2-8



Image 2-9



Image 2-10



Image 2-11

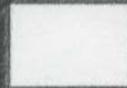


Image 2-12

GALLERY | CURRENT CATEGORY | SHOP

WEBSITE GALLERY "MGT"
PRINTS PAGE W/ PAYPAL CART

GALLERY 3

The template features an optional gallery extension. The template title for images in a gallery and can be expanded to both the main gallery and images in your cart. Your cart will also display
links for images in a gallery and can be expanded to both the main gallery and images in your cart.

Navigation controls: Home, Search, Cart, and other site navigation buttons.

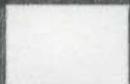


Image 3-1 You can add
other items from this
category to the cart.



Image 3-2 You can add
other items from this
category to the cart.

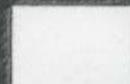


Image 3-3 You can add
other items from this
category to the cart.

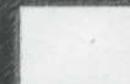


Image 3-4 You can add
other items from this
category to the cart.



Image 3-5 You can add
other items from this
category to the cart.



Image 3-6 You can add
other items from this
category to the cart.



Image 3-7 You can add
other items from this
category to the cart.



Image 3-8 You can add
other items from this
category to the cart.

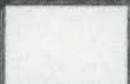


Image 3-9 You can add
other items from this
category to the cart.

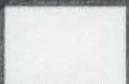


Image 3-10 You can add
other items from this
category to the cart.



Image 3-11 You can add
other items from this
category to the cart.



Image 3-12 You can add
other items from this
category to the cart.

GALLERY | CURRENT CATEGORY | SHOP

"AROUND-WEBSITE"

WEBSITE INDIVIDUAL
ART PAGE (VIEW)
EXPANDS 75% FOR DETAIL VIEWING

YOUR WEBSITE TITLE

u
||



ARTIST TITLE
The artist is responsible for each picture in this area. Each gallery page includes a
writing style page that you can edit. To edit this page, click the "ARTIST" link in the
writing style page. This will lead to the "ARTIST" page. The "ARTIST" page is the
main page for each artist. The "ARTIST" page is the main page for each artist.
This is an HTML page. The "ARTIST" page is the main page for each artist.
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main page for each artist. The "ARTIST" page is the main page for each artist.

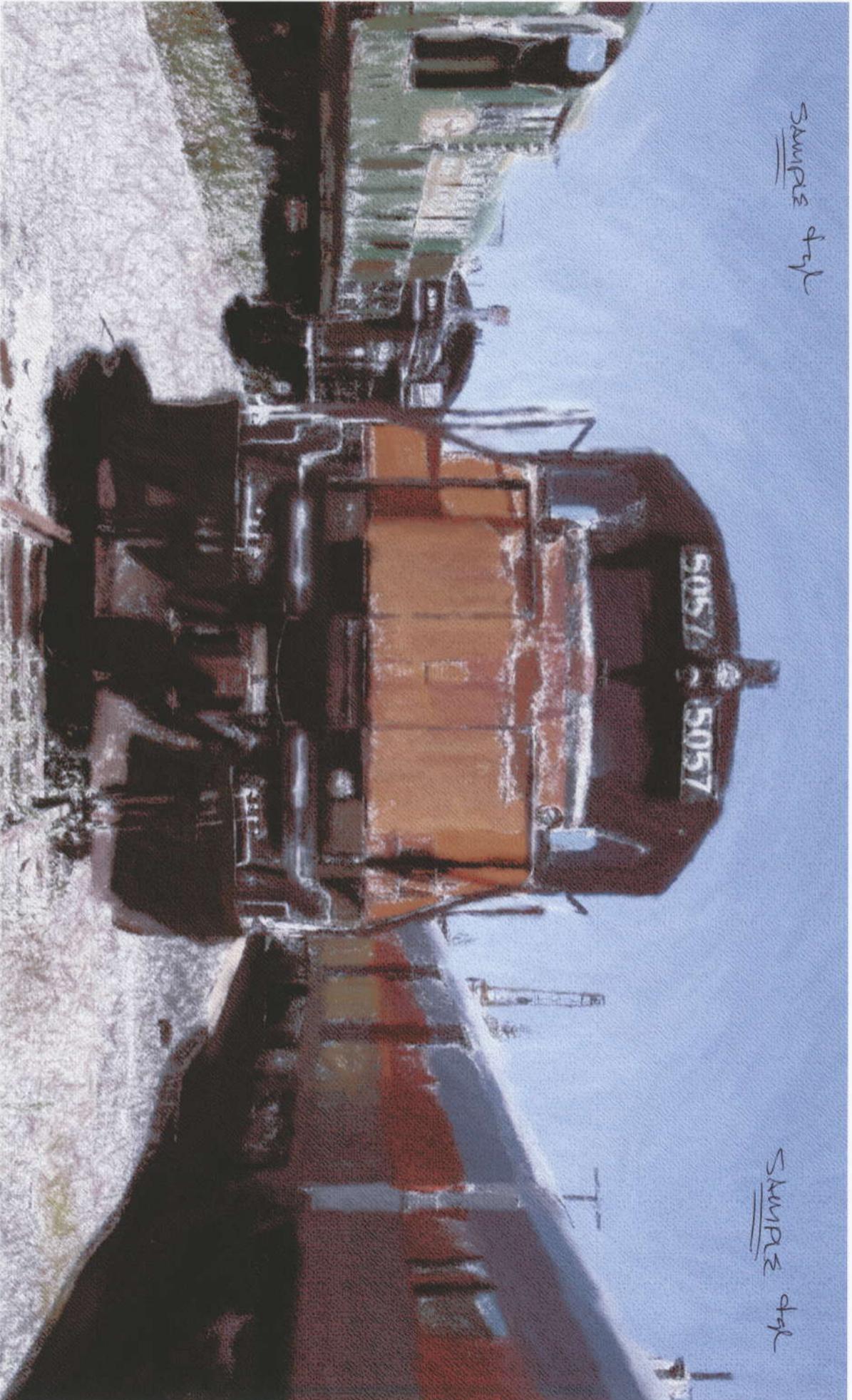
SAMPLE dpl



SAMPLE dpl

Passenger REPOSITION
(SAMPLE)

FRAM. 5057-POWER. T.P.
@ 300dpl



SAMPLE dgl

SAMPLE dgl

PASTEL REPOSITION
(SAMPLE)

FRM. 5057 - POUZE. TIF
@ 300dpi



SAMPLE
2/24

SAMPLES
2/24

Synchtronicity Rendition
(sample)

From 5057 - power.tif
@ 300dpi