

VISUAL ARTS LICENCE AGREEMENT TERMS AND CONDITIONS

1. Rights granted

1.1 Subject to payment of the Licence Fee, Copyright Agency grants to the Licensee a licence to reproduce, publish and communicate to the public the Artistic Work for the Product in the number of copies specified in the Schedule, if any, in the Territory for the Duration.

1.2 Any uses other than those authorised by the grant of licence in clause 1.1 require a separate licence from Copyright Agency.

2. No alteration or modification

The Licensee may not crop, overprint or otherwise alter, add to or take away from the Artistic Work in any way without obtaining Copyright Agency's prior written consent.

3. Copyright byline

3.1 The Licensee must use the byline set out in the Schedule.

3.2 If the Licensee fails to comply with clause 3.1 it agrees to pay to Copyright Agency in addition to the Licence Fee and on receipt of Copyright Agency's invoice an amount of 50% of the Licence Fee.

4. Protection of Artistic Work in digital media

The Licensee must ensure that reproductions of the Artistic Work used in any digital media are presented in such a way that they are suitable for screen based viewing but not high quality reproduction.

5. Payment of Licence Fee

In consideration for the licence granted by this Agreement the Licensee agrees to pay to Copyright Agency the Licence Fee plus the GST Amount on receipt of Copyright Agency's invoice.

6. No cancellation

For the avoidance of doubt, once the Licensee has accepted this Agreement the Licensee must pay the Licence Fee whether or not it exercises its rights to use the Artistic Work under the Agreement.

7. Complimentary samples

On request by Copyright Agency the Licensee will provide Copyright Agency with a sample of the Product at no charge to Copyright Agency.

8. Complimentary photographs

8.1 If requested by Copyright Agency the Licensee will provide Copyright Agency a high resolution photograph of the Product in the form of a jpeg file at a minimum of 300 dpi.

8.2 The Licensee grants Copyright Agency a non-exclusive royalty free irrevocable licence to reproduce, communicate and publish any photograph supplied by the Licensee under clause 8.1 for its internal and promotional purposes, including but not limited to use in reports and presentations and on its websites but not for commercial resale or licensing.

9. Copyright Agency's warranty

9.1 Subject to clause 9.2 Copyright Agency warrants that it is authorised to grant all rights in relation to the Artistic Work provided under the Agreement.

9.2 The Licensee acknowledges that Copyright Agency makes no warranty about the right to use any Indigenous culturally sensitive material in respect of the Artistic Work and the Licensee should make its own enquiries in relation to any such material.

10. Licensee's warranty

10.1 The Licensee warrants that:

- (a) any product using the Artistic Work will be of high quality and will be suitable for its intended purpose;
- (b) it will use its best endeavours to engage in ethical sourcing and fair trade practices with regard to the manufacture of the Product; and
- (c) it will comply with all relevant laws and standards with regard to the manufacture of the Product.

10.2 The Licensee indemnifies Copyright Agency from and against any damage, expense, loss or liability whatsoever suffered or incurred by Copyright Agency in respect of the breach of any warranty in clause 10.1.

11. Termination

11.1 Copyright Agency may terminate the Agreement by giving written notice to the Licensee if:

- (a) the Licensee uses the Artistic Work in any way not authorised by the Agreement;
- (b) the Licensee fails to pay the Licence Fee by the due date; or
- (c) the Licensee is in breach of an obligation of the Agreement other than the requirement to pay the Licence Fee in accordance with clause 5 and has failed to reasonably satisfy Copyright Agency that the Licensee is taking all reasonable steps to remedy the breach within one week of a written request to do so by Copyright Agency.

11.2 On termination of this Agreement the Licensee must cease using the Artistic Work.

12. Assigning or sublicensing

The Licensee must not sub-license, assign or otherwise alienate any of the rights granted under the Agreement except in accordance with the Agreement or otherwise with the express written consent of Copyright Agency.

13. Applicable law

This agreement shall be construed in accordance with the laws of New South Wales, Australia and each party irrevocably and unconditionally submits to the non-exclusive jurisdiction of the courts of New South Wales.

14. Definitions

Agreement includes these terms and conditions and, the Schedule;

Artist means the artist or artists identified in the Schedule;

Artistic Work means the artistic work or works identified in the Schedule to which Copyright Agency controls the right of reproduction, publication and communication to the public as agent for the Artist;

Duration means the term of the Agreement as set out in the Schedule;

GST means the goods and services tax imposed under A New Tax System (Goods and Services Tax) Act 1999 (Cth);

GST Amount means the Licence Fee multiplied by the appropriate rate of GST (currently 10%);

Licensee means the party named at the beginning of the Agreement;

Licence Fee means the fee payable by the Licensee as set out in the Schedule;

Product means the product or products on or in which the Artistic Work is used as described in the Schedule;

Schedule means the schedule to these terms at the beginning of the Agreement setting out details of the Product, the Licence Fee and other matters; and

Territory means the territory set out in the Schedule.

15. Interpretation

In this Agreement, unless the context otherwise requires:

- (a) headings and underlinings are for convenience only and do not affect the interpretation of this Agreement;
- (b) words importing the singular include the plural and vice versa;
- (c) words importing a gender include any gender; and
- (d) a reference to any statute includes all statutes amending, consolidating or replacing it.