

Art Advocacy Australia
Terms of Service – Licence Agreement
December 2019

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1. What types of licences does Art Advocacy Australia offer?

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2. How can I use licensed content?

You may use content in any way that is not restricted (see Restricted Uses below). Subject to those restrictions and the rest of the terms of this agreement, the rights granted to you by Art Advocacy Australia are:

- o Perpetual, meaning there is no expiration or end date on your rights to use the content.
- o Non-exclusive, meaning that you do not have exclusive rights to use the content.

Art Advocacy Australia can license the same content to other customers. For purposes of this agreement, "use" means to copy, reproduce, modify, edit, synchronise, perform, display, broadcast, publish, or otherwise make use of.

Examples of how you can use PERSONAL licensed content include: domestic artwork; personal social media; printed personal use

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3. Restricted Uses

a. No Unlawful Use. You may not use content in a pornographic, defamatory or other unlawful manner.

b. No Commercial Use of Editorial Licensed Content. You may not use content obtained with an editorial licence for any commercial, promotional, advertorial, endorsement, advertising or merchandising purpose. This type of content is not model or property released and is intended to be used only in connection with events that are newsworthy or of general interest (for example, in a blog, textbook,

newspaper or magazine article).

c. **No Standalone File Use.** You may not use content in any way that allows others to download, extract, or redistribute content as a standalone file (meaning just the content file itself, separate from the project or end use).

d. **No Use in Trademark or Logo.** You may not use content as part of a trademark, design mark, tradename, business name, service mark, or logo.

e. **Sensitive Use Disclaimer Required.** If you use content that features models or property in connection with a subject that would be unflattering or unduly controversial to a reasonable person (for example, sexually transmitted diseases), you must indicate: (1) that the content is being used for illustrative purposes only, and (2) any person depicted in the content is a model. For example, you could say: "Stock photo. Posed by model." No disclaimer is required for editorial licensed content that is used in an editorial manner.

f. **No False Representation of Authorship.** You may not falsely represent that you are the original creator of a work that is made up largely of licensed content. For instance, you cannot create a painting based solely on licensed content and claim that you are the author.

Restricted Uses - unless commercial licence purchased.

g. **No Products for Resale.** Unless you purchase a commercial licence, you may not use content in connection with any goods or services intended for resale or distribution where the primary value lies in the content itself including, without limitation, cards, stationery items, paper products, calendars, apparel items, posters (printed on paper, canvas, or any other media), DVDs, mobile applications or other items for resale, licence or other distribution for profit. This includes "on demand" products (meaning products in which content is selected by a third party for customization on such product on a made-to-order basis), including, without limitation, postcards, mugs, t-shirts, posters and other items

h. **No Electronic Templates.** Unless you purchase a commercial licence, you may not use content in electronic or digital templates intended for resale or other distribution (for example, website templates, business card templates, electronic greeting card templates, brochure design templates).

4. Who, besides me, can use the licensed content?

The rights granted to you are non-transferable and non-sublicensable, meaning that you cannot transfer or sublicense them to anyone else. There are two exceptions:

- **Employer or client.** If you are purchasing on behalf of your employer or client, then your employer or client can use the content. In that case, you represent and warrant that you have full legal authority to bind your employer or client to the terms of this agreement. If you do not have that authority, then your employer or client may not use the content.
- **Subcontractors.** You may allow subcontractors (for example, your printer or mailing house) or distributors to use content in any production or distribution process related to your final project or end use. These subcontractors and distributors may not use the content for any other purpose.

5. Intellectual property rights.

a. Who owns the content?

All of the licensed content is owned by either Art Advocacy Australia or the artists who supply the content. All rights not expressly granted in this agreement are reserved by Art Advocacy Australia and the content suppliers.

b. Attribution.

Do I need to include a photo credit? You do not need to include a photo credit for commercial use, but if you are using content for editorial purposes, you must include the following credit adjacent to the content or in visual production credits:

"ArtAdvocacy.com.au"

Do I need to include a video credit? Yes, if technically feasible, you must include the following credit in visual productions: "ArtAdvocacy.com.au."

6. Termination/Refunds/Withdrawal/Downloads.

a. Termination. This agreement is effective until it is terminated by either party. You can terminate this agreement by ceasing use of the content and deleting or destroying any copies. Art Advocacy Australia may terminate this agreement at any time if you fail to comply with any of the terms, in which case you must immediately: cease using the content; delete or destroy any copies; and, if requested, confirm to Art Advocacy Australia in writing that you have complied with these requirements.

b. Refunds. File Download Refunds - Art Advocacy Australia does not offer refunds or re-credits for downloaded files. File returns will only be considered based on technical issues with the file at the sole discretion of Art Advocacy Australia.

All requests for refunds/cancellations must be made in writing. If the request is approved, Art Advocacy Australia will issue a credit to your Paypal account

c. Content Withdrawal. Art Advocacy Australia may discontinue licensing any item of content at any time in its sole discretion. Upon notice from Art Advocacy Australia, or upon your knowledge, that any content may be subject to a claim of infringement of a third party's right for which Art Advocacy Australia may be liable, Art Advocacy Australia may require you to immediately, and at your own expense: cease using the content, delete or destroy any copies; and ensure that your clients, distributors and/or employer do likewise.

Art Advocacy Australia will provide you with replacement content (determined by Art Advocacy Australia in its reasonable commercial judgment) free of charge, subject to the other terms of this agreement.

d. Downloads. Downloads are available for 30 days from date of purchase only and cannot be accessed once this period has elapsed unless a further fee is paid.

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b. "Editorial Licence" Warranty Disclaimer. For content purchased with an editorial licence, Art Advocacy Australia warrants that the content will not infringe on any copyright or moral right of the artist, but it does not grant any right or make any warranty with regard to the use of names, people, trademarks, trade dress, logos, registered, unregistered or copyrighted designs, works of art or architecture depicted or contained in the content. In such cases, you are solely responsible for determining whether release(s) is/are required in connection with your proposed use of the content obtained with an editorial licence, and you are solely responsible for obtaining such release(s). You acknowledge that no releases are generally obtained for content with an editorial licence and that some jurisdictions provide legal protection against a person's image, likeness or property being used for commercial purposes when they have not provided a release. You may contact info@artadvocacy.com.au to confirm which releases are already held by us.

c. Caption/Metadata Disclaimer. While we have made reasonable efforts to correctly categorize, keyword, caption and title the content, Art Advocacy Australia does not warrant the accuracy of such information, or of any metadata provided with the content.

d. No Other Warranties. Except as provided in the "warranty of non-infringement" section above, the content is provided "as is" without representation, warranty or condition of any kind, either express or implied, including, but not limited to, implied representations, warranties or conditions of merchantability, or fitness for a particular purpose. Art Advocacy Australia does not represent or warrant that the content will meet your requirements or that its use will be uninterrupted or error free.

8. Indemnification/Limitation of Liability.

a. Indemnification of Art Advocacy Australia by you. You agree to defend, indemnify and hold harmless J Jura Investments Pty Ltd trading as Art Advocacy Australia and, and each of their respective officers, directors and employees from all damages, liabilities and expenses (including reasonable outside legal fees) arising out of or in connection with any breach or alleged breach by you (or anyone acting on your behalf) of any of the terms of this agreement.

b. Limitation of Liability. Art Advocacy Australia will not be liable to you or any other person or entity for any punitive, special, indirect, consequential, incidental or other similar damages, costs or losses arising out of this agreement, even if Art Advocacy Australia has been advised of the possibility of such damages, costs or losses where permitted by law.

9. General Provisions.

a. Assignment. This agreement is personal to you and is not assignable by you without Art Advocacy Australia's prior written consent. Art Advocacy Australia may assign this agreement, without notice or consent, to any corporate affiliate or to any successor in interest, provided that such entity agrees to be bound by these terms.

b. Electronic storage. You agree to retain the copyright symbol, the name of Art Advocacy Australia, the content's identification number and any other information that may be embedded in the electronic file containing the original content, and to maintain appropriate security to protect the content from unauthorized use by third parties. You may make one (1) copy of the content for back-up purposes.

c. Governing Law/Arbitration. This agreement will be governed by the laws of the Western Australia

d. Severability. If one or more of the provisions in this agreement is found to be invalid, illegal or unenforceable in any respect, the validity, legality and enforceability

of the remaining provisions should not be affected. Such provisions should be revised only to the extent necessary to make them enforceable.

e. Waiver. No action of either party, other than express written waiver, may be construed as a waiver of any provision of this agreement.

f. Entire Agreement. No terms of conditions of this agreement may be added or deleted unless made in writing and accepted in writing by both parties, or issued electronically by Art Advocacy Australia and accepted in writing by you. In the event of any inconsistency between the terms of this agreement and the terms contained on any purchase order sent by you, the terms of this agreement will apply.

g. Notice. All notices required to be sent to Art Advocacy Australia under this agreement should be sent via email to info@artadvocacy.com.au. All notices to you will be sent via email to the email set out in your account.

h. Taxes. You agree to pay and be responsible for any and all sales taxes, use taxes, value added taxes and duties imposed by any jurisdiction as a result of the licence granted to you, or of your use of the licensed content.

i. Licensing Entity. The licensing entity under this agreement is determined based on your billing address.

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