

VICTORIAN COLLECTIONS
WEBSITE USE TERMS AND CONDITIONS

Current as at 1 June 2020

Please carefully read the terms and conditions set out below. They state:

- (a) how you may use this website (**the Site**), operated by **Australian Museums and Galleries Association of Victoria** ABN 83 048 139 955 (**AMaGA (Victoria), we, us and our**) in collaboration with Museums Victoria and Creative Victoria; and
- (b) our limitations of liability.

1. Terms and conditions

- 1.1 These terms and conditions (including any amended or updated terms and conditions – together, **these Terms**) govern your access to and use of the Site.
- 1.2 By using our Site, you confirm that you agree to comply with these Terms. If you do not agree to be bound by these Terms, please do not use the Site.
- 1.3 The terms and conditions that govern the ability of Content Contributors to upload to the Site are separate to and, except to the extent of any inconsistency, additional to these Terms (see *Victorian Collections Content Contributors Terms & Conditions – the Contributor Terms*).

2. Changes to these Terms

- 2.1 We may update these Terms from time to time, effective from when the revised Terms are made available on this page. You are responsible for checking for each amended set of Terms. To make this easier, each version will be dated with the date on which it commences.

3. Copyright

- 3.1 All material on the Site is made available on an “All Rights Reserved” basis, to be used only as permitted under the *Copyright Act 1968* (Cth) or other relevant copyright law.
- 3.2 Notwithstanding clause 3.1, in some cases individual museums, galleries, and other collection sources have uploaded material to the Site under a more open licence (including under one of the licences referred to as “Creative Commons” licences). In such cases, we give no warranty or guarantee that the relevant collecting organisation or individual is entitled to grant the relevant licence, and if you are unclear as to the situation, you should check the position with the relevant collection source.

4. The Site

- 4.1 We may change the Site (including by removing or adding content, links and other URLs) and make the Site inaccessible, or modify, discontinue or upgrade the Site at our discretion, without notice and, to the maximum extent permitted by law, without liability to you or anyone else.
- 4.2 The content on the Site is provided for general information only and is offered on an “as is” basis.
- 4.3 You are responsible for:
 - (a) making all arrangements necessary to gain access to the Site (when available)
 - (b) making all arrangement to protect your software, hardware and internet connectivity from any bug or virus by using your own virus protection software; and

- (c) ensuring that anyone who accesses the Site through your internet connection is both aware of these Terms and complies with them.

4.4 If we enable you to post material on or submit material for the Site:

- (a) you agree only to post material which:
 - (i) you own, control or are otherwise authorised to post;
 - (ii) does not infringe the rights of others;
 - (iii) is not defamatory or obscene; and
 - (iv) does not otherwise breach any law;
- (b) you grant us a non-exclusive, world-wide, perpetual, irrevocable, sub-licensable, transferable licence to use, reproduce, adapt, publicly perform and communicate to the public that material, including by any and all means and media (whether now known or existing in the future);
- (c) you promise that you have the right to grant such a licence and you promise that our use of the material in accordance with that licence will not infringe the rights of any person;
- (d) you agree that we will not be responsible or liable to any third party for the content or accuracy of any content posted by you or any other user of our Site;
- (e) you agree not to take any action against us based on or in any way related to content you or some other person posting material to the Site has uploaded or otherwise made available;
- (f) you acknowledge that in exercising any rights granted by you to us under this clause we are not required to attribute you as the author of material, we may attribute others as the author of it and that the material will be considered non-confidential and non-proprietary; and
- (g) subject to our Privacy Policy (see *Victorian Collections Privacy Policy*) and at our complete discretion (for any or no reason), we may (except in relation to Contributor Content for collections and stories) delete, edit, change or deal with all or any part of that material in any manner (including for promotional purposes).

4.5 We have the right at any time to disable any user identification code or password (whether chosen by you or allocated by us) if, in our reasonable opinion, you have failed to comply with any of these Terms.

4.6 Where the Site contains links to other sites and resources provided by third parties, these are provided for your information only and you acknowledge we have no control over the content of those sites or resources.

4.7 Your right to access and use the Site ceases immediately if you use the Site in breach of these Terms.

5. Further promises

5.1 Except as expressly permitted by law, or as expressly authorised by us in writing, you agree not to:

- (a) reproduce or communicate to the public any of the materials available on the Site other than in accordance with these Terms;
- (b) modify any materials you print, copy or download from the Site;
- (c) remove any copyright notice or metadata from the Site;
- (d) systematically download material from the Site in aggregate quantities to store for uses other than permitted under clause 3; or

- (e) disclose to or share with any person or entity any password or log-in details with which we may provide you, or use your password or log-in details for any unauthorised purpose.

5.2 You agree to:

- (a) comply with all relevant laws relating to the use of the Site or the materials on the Site;
- (b) promptly notify us at admin@victoriancollections.net.au if you know or suspect that any person not authorised by us knows any user identification code or password we may have allocated to you or that you have chosen to use in relation to the Site and/or our products or services; and
- (c) indemnify us against any and all liability, loss, damage, cost or expense, caused by any breach by you of any provision of these Terms.

5.3 You warrant that, subject to any obligations or rights in relation to privacy (including our Privacy Policy) any account or personal information you provide is accurate.

5.4 By continuing to use the Site, you agree to us installing cookies. If you do not agree to us installing cookies, you should look to amend your browser preferences accordingly, and also expect that not all features of the Site will work optimally for you.

6. Our liability is limited

6.1 Unless expressly stated otherwise, and except where required by law, we make no warranties, express or implied, in relation to the Site or the services supplied through this Site, including but not limited to warranties of accuracy, reliability, merchantability or fitness for a particular purpose.

6.2 To the maximum extent permitted by law, we do not make any warranties that the Site will be available, complete, up-to-date, uninterrupted or free from errors, omissions, bugs or viruses.

6.3 To the maximum extent permitted by law and save as expressly stated in these Terms, all other express or implied terms, conditions, warranties, statements, assurances and representations in relation to the sites and/or any content on the Site arising from these Terms are expressly excluded.

6.4 Except as required by law, in no event will we (including our agents, employees or contractors) be liable for any direct, indirect or consequential loss (even if we are aware of the possibility of such loss or if such loss was otherwise foreseeable), including, but not limited to, loss of profits, production, data, opportunity or goodwill or business interruption, however caused and on any theory of liability, including without limitation, contract or tort (including negligence or otherwise) arising during and/or as a result of our performance or non-performance of these Terms and including any such loss:

- (a) caused by a virus, distributed denial-of-service attack, or other technologically harmful material that may infect your computer equipment, computer programs, data or other proprietary material due to your use of the Site or to your downloading of any content on it or on any Sites linked to them; or
- (b) that may arise from your use of Sites to which our Site links (such links not to be interpreted as endorsement by us of those linked Sites or of any goods or services offered on or through them); or
- (c) caused by your use of material on the Site uploaded by third parties (including Content Contributors).

6.5 If any of the exclusions or limitations set out in this clause are declared illegal or void or if there has been a breach of a term, condition, warranty, statement or assurance which cannot be excluded by these Terms, then, to the extent permitted by law, our entire liability and your exclusive remedy is limited

to, at our discretion, the replacement of any applicable goods or service, or the supply of equivalent goods or an equivalent service.

7. General

- 7.1 Any failure by us to enforce any of these Terms will not be deemed a waiver of such right or provision.
- 7.2 Except in the case of Content Contributors, these Terms contain the entire agreement between you and us relating to the Site and supersede any prior agreement. The validity, construction, breach and operation of these Terms shall be governed by the laws of and shall be adjudicated in the State of Victoria.
- 7.3 If any provision of these Terms is held invalid or unenforceable, that provision will be limited or eliminated to the minimum extent necessary, and the remaining provisions will remain in full force and effect.
- 7.4 **AMaGA (Victoria)** includes its successors and assignees.
- 7.5 **Content Contributors** means collecting organisations such as museums and galleries (and individuals authorised to act on their behalf) who have agreed to the Contributor Terms and are authorised to upload images of, and information about, their collections and collection items to the Site, and includes their successors and assignees.