



THE LESTER PRIZE FOR PORTRAITURE

TERMS & CONDITIONS | YOUTH | 2019

1 Definitions

AGWA means the Art Gallery of Western Australia ABN 14 734 347 675.

Art's Edge has the meaning given in “Section Two—Finalists Only”, Final Judging & Announcement of Winners.

Artist means the creator of the portrait.

Australian Resident means a person who:

- a) is an *Australian Citizen*, as that term is defined in the *Australian Citizenship Act 2007 (Cth)*; or
- b) holds a current *Permanent Visa*, as that term is defined in the *Migration Act 1958 (Cth)*.

Brookfield means Brookfield Commercial Operations Pty Ltd ABN 86 120 690 940.

Business Days means any day other than a Saturday, Sunday or public holiday in Western Australia.

Closing Date means 5:00pm (AWST) on Friday 26 July 2019. // Extended to 5:00pm (AWST) on Tuesday 30 July 2019 //

Consent Form means the consent form available from the Website, and by which the Artist's parent or guardian agrees:

- a) to the Artist's portrait being entered into the Prize; and
- b) on behalf of the Artist, to these terms and conditions.

The
Lester
Prize

Consequential Loss is any of the following:

- a) direct expenditure of time by consultants, managers or employees consequential upon any loss;
- b) loss of opportunity;
- c) loss of anticipated savings;
- d) loss of profit, revenue or business;
- e) damage to reputation; and
- f) the cost of capital or other financing costs.

Entry Fee is \$15.00 (inclusive of GST) per portrait.

Entry Form means the Prize Entry Form available on the Website and submitted to The Lester online via the Website.

Exhibition Requirements has the meaning given in “Section Two—Finalists Only”, Exhibition Requirements.

Final Judging has the meaning given in “Section Two—Finalists Only”, Final Judging & Announcement of Winners.

Finalist has the meaning given to that term in clause 15.

Judges has the meaning given in “Section Two—Finalists Only”, Final Judging & Announcement of Winners.

Partners means those sponsors and entities authorised by The Lester as sponsors of The Lester Prize, including AGWA and Brookfield.

Portrait Description has the meaning given to that term in clause 14.

Portrait Images means the 1 or 2 high resolution (we suggest 300 pixels per inch – 15cm on its longest side, and a file size of no more than 5MB) jpeg/jpg images of the Artist’s portrait attached to the Entry Form submitted online to The Lester.

Pre-Selection Panel has the meaning given to that term in clause 15.

Prize means The Lester Prize (Youth) 2019.

Squire Patton Boggs (AU) School Prizes means the awards detailed and described in clause 8.

Student Prizes means the awards detailed and described in clause 7.

Subject has the meaning given to that term in clause 9.

Subsequent Exhibitions has the meaning given in “Section Two—Finalists Only”, Exhibition of Portrait.

The Lester means The Lester Inc (formerly known as ARTrinsic Inc), an incorporated association with registration number A1013323K and ABN 76 562 139 103 and any of its registered business names from time to time.

The Lester Prize means the Prize and all:

- a) past portraiture prizes created and organised by The Lester entitled ‘Black Swan Prize for Portraiture’; and
- b) future portraiture prizes created and organised by The Lester entitled ‘The Lester Prize’.

Website means www.lesterprize.com.

Youth Exhibition has the meaning given in “Section Two—Finalists Only”, Exhibition of Portrait.

2 General

These terms and conditions, the Artist’s completed Entry Form and the Consent Form, form the agreement between the Artist, the Artist’s parent or guardian and The Lester which governs the entry of a portrait into the Prize.

By submitting a completed Entry Form to The Lester and, in the case of an Artist under the age of 18 years, the Consent Form, the Artist is taken to agree to these terms and conditions.

The Lester may amend these terms and conditions and the Entry Form at any time, subject to giving notice of the amendment to the Artist. Notice of any amendment may be written, verbal or constructive notice. The Artist’s continued involvement in the Prize after any amendment will be taken as their acceptance of any changes to these terms and conditions and the Entry Form.

The Lester has absolute discretion in deciding whether or not an Artist or a portrait has satisfied the terms and conditions for entry into the Prize.

3 Artists

The Artist must be:

- (a) an Australian school or home-schooled student in years 7 to 12 of school; and
- (b) an Australian Resident.

as at 5:00pm (AWST) on the Closing Date.

In the case of home-schooled students, year levels relate to the relative age of the student, such that a home-schooled student will be deemed to be in the year level that they would otherwise be in if they were attending regular schooling, according to age.

Employees of The Lester, AGWA staff, Prize sponsors and employees or immediate families of the Prize Judges and their respective agents cannot enter the Prize.

All Artists under the age of 18 years must obtain their parent or guardian's consent to enter the Prize. This will be evidenced by a parent or guardian of the Artist signing the Consent Form.

4 Entering the Prize

To enter a portrait in the Prize, the Artist or their agent must:

- (a) submit a completed Entry Form and Consent Form to The Lester via the Website by the Closing Date; and
- (b) pay the Entry Fee to The Lester:
 - i) within 10 Business Days of the date of submission of the completed Entry Form to The Lester; or
 - ii) by the Closing Date,whichever date is earlier.

An Entry Form will be deemed a 'completed Entry Form' only if:

- (a) all data fields on the Entry Form are correctly completed; and
- (b) it attaches the Portrait Images in the correct format (jpeg or jpg).

Incomplete entries and the portraits associated with incomplete entries will not be processed, accepted or considered by the Pre-Selection Panel for exhibition.

5 Entry Fee

The Entry Fee must be paid to online via credit card, PayPal or electronic funds transfer.

The Entry Fee will be deemed 'paid' to The Lester upon receipt of cleared funds by The Lester.

The Entry Fee is non-refundable.

6 Warranties

The Artist and their parent or guardian agree and warrant that:

- (a) all information provided by the Artist, their parent, guardian or agent in the completed Entry Form, Consent Form and to The Lester in the course of the Prize is true and correct;
- (b) the Artist is an Australian Resident;
- (c) the Artist is an Australian school or home-schooled student in years 7 to 12 of school;
- (d) the Artist's portrait is a portraiture artwork undertaken and completed by the Artist within the 18 months immediately preceding the Closing Date;
- (e) the Portrait Images are true and accurate representations of the Artist's portrait; and
- (f) if the Artist is selected as a Finalist:
 - i) the Artist's portrait will be available for a period of 12 months from the Closing Date for exhibition; and
 - ii) the Artist or their agent will deliver the portrait on time to such locations as advised by The Lester from time to time, and the portrait will not be permitted to be collected before 26 July 2020, unless otherwise informed.

7 Student Prizes

By entering the Prize, the Artist agrees that all Finalists are eligible to be considered for the award of the following:

- (a) if the Artist is in Years 11 or 12 of school:
 - (i) 1st Prize - A\$500 gift voucher from Oxlades Art Supplies;
 - (ii) 2nd Prize - A\$100 worth of Art Supplies by Oxlades Art Supplies; or
 - (iii) 3rd Prize - A\$50 worth of Art Supplies by Oxlades Art Supplies.
- (b) if the Artist is in Years 9 or 10 of school:
 - (i) 1st Prize - A\$500 gift voucher from Oxlades Art Supplies;
 - (ii) 2nd Prize - A\$100 worth of Art Supplies by Oxlades Art Supplies; or
 - (iii) 3rd Prize - A\$50 worth of Art Supplies by Oxlades Art Supplies.
- (c) if the Artist is in Years 7 or 8 of school:
 - (i) 1st Prize - A\$500 gift voucher from Oxlades Art Supplies;
 - (ii) 2nd Prize - A\$100 worth of Art Supplies by Oxlades Art Supplies; or
 - (iii) 3rd Prize - A\$50 worth of Art Supplies by Oxlades Art Supplies.

The Artist also acknowledges and agrees that not all Artists receive a Student Prize.

8 Squire Patton Boggs (AU) School Prizes

A school will be eligible to be considered for award of the following if one or more of its students is a Finalist:

- (a) if the Finalist is in years 10 to 12
One day professional Art Workshop hosted by a finalist in The Lester Prize (Adult) 2019, valued at \$1,000. Details to be confirmed in conjunction with The Lester and the winning school. Prize is valid for one year only.

(b) if the Finalist is in years 7 to 9

Half day professional Art Workshop hosted by a finalist in The Lester Prize (Adult) 2019, valued at \$500. Details to be confirmed in conjunction with The Lester and the winning school. Prize is valid for one year only.

9 Subject

The portrait must be a portrait of a person who is an Australian Resident, or of persons who are all Australian Residents (the “Subject”).

The Lester or their representatives (which may be the Pre-Selection Panel and/or Prize Judges) have sole discretion to determine whether a portrait is eligible to be considered by the Pre-Selection Panel for exhibition. The Lester or their representatives may make this decision with or without (at The Lester's sole discretion) further information from the Artist.

10 Portrait Completion Date

The portrait must have been undertaken and completed by the Artist in the 18 months immediately preceding the Closing Date.

11 Medium

Portraits may be executed in (but not restricted to) oil, acrylic, watercolour, pastels, textiles, pencils, charcoal, ink and mixed media (no sculptures, digital media or photography accepted). The Artist must provide details of the media used in the portrait on the Entry Form. If there is any uncertainty as to the media used contact The Lester.

12 Size Requirements

The size of the portrait must not exceed A0 in size (excluding the frame) with a maximum weight of 30kg. Diptychs and triptychs must not exceed A0 in size. A0 is 841mm x 1,189mm.

13 Number of Entries

Artists may enter a maximum of two portraits in the Prize.

Artists agree that if they enter more than one portrait, only one portrait can be selected for exhibition in accordance with clause 15.

Separate Entry Forms and Consent Forms need to be completed and submitted to The Lester for each portrait.

14 Portrait Description

The Artist must provide a brief artist statement or description of their experience of painting their Subject (600 characters max) with the Entry Form (“Portrait Description”).

The Artist and their parent or guardian agree to The Lester and the Partners using the Portrait Description for the purposes of:

- (a) any display or exhibit of the portrait;
- (b) promoting, marketing, advertising or otherwise publicising any aspect of The Lester Prize, or any display or art exhibitions containing portraits entered into The Lester Prize;
- (c) production of electronic and print media, such as but not limited to, exhibition catalogues featuring images of portraits entered in The Lester Prize, the Portrait Images and or the Portrait Description; and
- (d) education.

The Portrait Description must be accurate with no spelling or grammatical errors. The Artist agrees that The Lester and the Partners have the right to amend the Portrait Description or its placement in any display or exhibition of the portrait.

15 Pre-Selection Process

A pre-selection panel (“Pre-Selection Panel”) will review the Portrait Images and select approximately 30 to 40 portraits for exhibition.

An Artist whose portrait is selected by the Pre-Selection Panel for exhibition at the Youth Exhibition is a finalist (“Finalist”).

The Lester reserves the right to revoke an Artist’s status as a Finalist if the portrait differs in any material way from the Portrait Images.

The Pre-Selection Panel will consist of 3 members who will be selected at The Lester’s sole discretion. Members of the Pre-Selection Panel may also be selected as Judges of the Finalists’ portraits. The Pre-Selection Panel’s decisions are final and no correspondence will be entered into.

16 Finalists subject to “Section Two—Finalists Only”

The Artist acknowledges and agrees that the terms and conditions set out in clause 19(3), clause 20, and “Section Two—Finalists Only” will apply if the Artist is a Finalist.

17 Notification of Finalists

The Finalists will be announced to the media and published on the Website by no later than 5:00pm (AWST) on Friday 16 August 2019. Finalists will not be notified before the media announcement and publication on the Website.

As Artists are not informed of their status as a Finalist prior to Friday 16 August 2019, each Artist acknowledges and agrees that any marketing material or media announcements produced or published on and prior to Friday 16 August 2019 may not include the following details:

- (a) the name and details of the photographer whose image(s) of the Artist or Artist’s portrait appear in the marketing material or media announcements; and
- (b) image courtesy credit where the image is supplied by a commercial agent or representative or in agreement between the Artist and the agent or representative.

All Artists will be contacted via email after the media announcement and publication on the Website, with the notification of the Finalists. It is the Artist's responsibility to ensure they notify The Lester of any changes to their contact details.

18 Ownership, Risk and Indemnity

The Artist shall be and will remain the owner of the physical portrait upon entry into the Prize.

Whilst all reasonable care will be taken:

- (a) The Lester;
- (b) The Lester's:
 - i) contractors;
 - ii) staff; and
 - iii) volunteers;
- (c) the Partners; and
- (d) the Partners':
 - i) contractors;
 - ii) staff; and
 - iii) volunteers,

will not be liable or held responsible for any loss or damage whatsoever or however caused, to any portrait:

- (a) while in their custody; or
- (b) during transport to or from any exhibition in which the portrait is displayed.

The Artist must indemnify The Lester and the Partners against any claim, action, proceedings, judgment, damage, loss, expense or liability incurred or suffered by it arising directly or indirectly out of its entry of a portrait in the Prize.

Under no circumstances will The Lester or the Partners be liable for any Consequential Loss.

19 Intellectual Property

- (1) Subject to clause 19(3), the Artist retains intellectual property in any portrait entered in the Prize and nothing in these terms and conditions shall transfer, alter or assign their intellectual property.
- (2) All Artists acknowledge, agree and warrant that if they submit images (including Portrait Images) to The Lester taken by a third party, the Artist is authorised to do so for the purposes disclosed in these terms and conditions and the third-party author is aware of and agrees to:
 - (a) The Lester and the Partners using those images in any way in relation to The Lester Prize, including but not limited to the reproduction, publication or communication of those images in any way and in any form of media such as print or digital; and
 - (b) their name and details not appearing in relation to those images in some circumstances.
- (3) If an Artist becomes a Finalist, in consideration for the public display or exhibition of their portrait by The Lester, the Artist hereby:
 - (a) grants to:
 - (i) The Lester a perpetual, non-exclusive, royalty-free, worldwide licence (including the right to sub-licence); and
 - (ii) the Partners a 1 year, non-exclusive, royalty-free, worldwide licence; and
 - (iii) AGWA a 3 year, non-exclusive, royalty-free, worldwide licence to archive the exhibition page on the AGWA website (www.artgallery.wa.gov.au), to photograph, publish, copy, reproduce, communicate to the public (including via the internet and social media platforms) and otherwise exercise the intellectual property rights in their portrait selected for exhibition, the associated Portrait Images and the Portrait Description for the purposes of:
 - A. displaying or exhibiting in any way, including in a print or digital form, the portrait, images of the portrait, the Portrait Images and or the Portrait Description;

- B. determining the winners of the Student Prizes;
 - C. promoting, marketing, advertising or otherwise publicising any aspect of The Lester Prize or any displays or art exhibitions containing portraits entered into The Lester Prize;
 - D. publications on the Website, the Partners' websites and or social media;
 - E. production of electronic and print media, such as but not limited to, exhibition catalogues featuring the portrait, images of portraits entered in The Lester Prize, the Portrait Images and or the Portrait Description;
 - F. education; and
 - G. any other uses as may be required by The Lester to comply with its obligations under these terms and conditions;
- (b) acknowledges and agrees that in the event their portrait is displayed in any displays or exhibitions containing portraits entered into The Lester Prize:
- (i) the portrait may be photographed by visitors to the display or exhibition;
 - (ii) the portrait may be photographed by media and used in media and public communications; and
 - (iii) third party websites may promote the display or exhibition of portraits entered into The Lester Prize; and
- (c) agrees to indemnify and hold harmless The Lester and the Partners and each of The Lester's and the Partners' agents and employees against any claim by a third party that the third party's intellectual property rights have been infringed:
- (i) by the Finalist;
 - (ii) by The Lester, the Partners and or each of The Lester's and the Partners' agents and employees;

- (iii) by the Finalist's portrait or any use thereof,
- (iv) by the Portrait Images or any use thereof;
- (v) by the Portrait Description or any use thereof; or
- (vi) as a consequence of use of any information, images or materials provided by the Finalists to The Lester, the Partners and each of The Lester's and the Partners' agents and employees.

20 Moral Rights

While The Lester and the Partners endeavour not to breach the Artist's moral rights (as provided in the *Copyright Act 1968* (Cth)), the Artist hereby acknowledges that in some instances it may not be possible for The Lester or the Partners to include the name of the Artist in connection with their portrait on social media platforms.

The Artist hereby consents to The Lester and the Partners not including the Artist's name in relation to the Artist's portrait where the portrait is displayed or reproduced, in any format, on social media platforms or in any media or press releases issued prior to notification of Finalists on Friday 16 August 2019.

21 Governing Law

The law applicable to these terms and conditions is that of the State of Western Australia and the parties agree to submit to the non-exclusive jurisdiction of the Courts of that State.

SECTION TWO—FINALISTS ONLY

These terms and conditions apply to Finalists.

Delivery

The Finalist or their agent:

- (a) is responsible for delivering their portrait to Art's Edge Photo & Frame (Shop 75, Joondalup Gate, 93 Joondalup Drive, Edgewater WA 6027) ("Art's Edge") in the period from Tuesday 27 August 2019 to Thursday 5 September 2019 inclusive, between the hours of 9:00am and 5:00pm (AWST) only; and
- (b) must ensure the portrait is covered in bubble wrap or in a suitable case for protection during transport.

Portraits received outside or after the dates and times referred to above will not be accepted under any circumstances and no exceptions will be made.

The Lester reserves the right to notify the Finalist in writing (which may be electronically) of an alternative delivery venue or time (or both), in which case the Finalist must comply with any such notification.

By delivering or arranging for the delivery of the portrait by an agent to Art's Edge as outlined above, or by providing the portrait to The Lester by any other means agreed between the Finalist and The Lester, the Finalist agrees to their portrait being held by The Lester and displayed as part of and for the duration of any display or exhibition of Prize portraits.

Exhibition Requirements

The Finalist must:

- (a) clearly label their portrait with the Finalist's name and the title of the portrait;
- (b) provide hanging instructions, photo references and details of the number of pieces comprising the portrait and piece layout instructions (including images where necessary); and

(c) ensure the portrait is in a reasonable condition for exhibiting, (together, “Exhibition Requirements”).

The Finalist agrees to their portrait being:

(a) photographed for digital or printed display purposes; and

(b) framed,

by Art’s Edge for consistency and professionalism.

Art’s Edge will provide a discounted framing rate for the portraits and will ensure the portrait is fitted with 25mm D-ring hooks on the back, a quarter of the way down from the top of the portrait, for ease of hanging.

Parents or guardians or the school teacher of the Finalist will be given the opportunity, upon delivery of the portrait to Art’s Edge, to choose and purchase from Art’s Edge an appropriate discounted frame for the portrait.

If the Finalist fails to comply with any of these requirements The Lester may take all reasonable steps to ensure the portrait complies with the Exhibition Requirements.

Portraits hanging

Portraits may not be displayed to the Finalist’s satisfaction owing to the limited space available at any display or exhibition venue. Portraits are hung at the sole discretion of The Lester, and agents and/or staff of The Lester and no discussion will be entered into with the Finalist.

Exhibition of Portrait

The Finalist grants to The Lester permission to display or exhibit their portrait, or a print or digital reproduction of their portrait:

- (a) in an exhibition of selected Finalists for the Prize at the Brookfield Tower or such other venue as The Lester's Board ("Board") may, in its absolute discretion, determine ("Youth Exhibition");
- (b) in a printed exhibition at the Perth Cultural Centre of all or some of the Finalists for the Prize for a period of up to one month ("Subsequent Exhibitions"); and
- (c) in an electronic exhibition of selected Finalists for the Prize at the Perth Cultural Centre and the City of Perth Library big digital screens.

The Finalist acknowledges and agrees to ensure that the original portrait is available for the entire duration of the Youth Exhibition, whether or not they are the owner of the portrait.

Final Judging & Announcement of Winners

Judging of the Finalists' portraits to award the Student Prizes and Squire Patton Boggs (AU) School Prizes will be undertaken whilst the portraits are exhibited at the Youth Exhibition ("Final Judging").

The portraits will be judged for award of the Student Prizes and Squire Patton Boggs (AU) School Prizes by three judges selected by The Lester ("Judges"). The award of the Student Prizes and Squire Patton Boggs (AU) School Prizes are at the sole discretion of the Judges.

The Lester may, at its sole discretion, reject a Finalist's portrait from:

- (a) Final Judging; or
- (b) any display or exhibition,

for any reason, including but not limited to failing to comply with the Exhibition Requirements, if the portrait differs from or was misrepresented by the Portrait Images, if the portrait does not meet (at the Judges' discretion) the terms and conditions of the Prize (including but not limited to the requisite size, Subject, medium or otherwise requirements).

The Lester reserves the right to revoke the award of any Student Prizes and Squire Patton Boggs (AU) School Prizes (and any associated privileges) and give them to another Finalist or school respectively, if the Finalist:

- (a) declares false information in the Entry Form or during the course of the Prize; or
- (b) fails to comply with their obligations under these terms and conditions.

The Lester or the Judges may, at their discretion, not award any Student Prizes or Squire Patton Boggs (AU) School Prizes. The decisions of The Lester and the Judges are final and no challenges will be permitted.

Sales of portraits

The Finalist may notify The Lester in the "Portrait Details" section of the Entry Form whether they wish to have the portrait offered for sale.

A commission of 30% + GST will be added to the price listed and charged on the sale of Finalists' portraits.

Portraits which are not sold during the Youth Exhibition shall be returned to the custody of the Finalist in accordance with the "Collection of Portrait after Exhibition" clause.

Finalists are responsible for arranging the delivery of portraits which are sold.

The Finalist warrants that the entrance of their portrait into the Prize, including any subsequent sale of their portrait, does not breach any contract which the Finalist has entered into with a third party (including, but not limited to, any arrangement with a gallery or venue through whom the Finalist is represented). The Finalist hereby indemnifies The Lester for any loss or damage incurred by The Lester as a result of a claim by a third party that the Finalist has breached a third-party contract.

Collection of Portrait after Exhibition

The Finalist:

- (a) must collect their portrait from the Youth Exhibition venue (Brookfield Tower, 125 St Georges Terrace, Perth) between the hours of 10:00am and 2:00pm (AWST) on a date to be advised by The Lester, which will be no later than 26 July 2020, unless otherwise informed;
- (b) is responsible for all transport, freight and collection costs; and
- (c) if having their portrait collected by a courier, must ensure all paperwork for the relevant couriers is provided to The Lester before the date for collection. No portraits will be returned without completed courier documentation including the return address for delivery of the portrait and the consent of the Finalist (and, where applicable, the recipient).

Insurance & Liability

The Finalist is responsible for insurance for their portrait.

Finalists agree and acknowledge that if their portrait is exhibited, their portrait may be exhibited in a public venue and is therefore subject to risk due to unforeseen actions of the public.

The Lester, the Partners and any venues at which the Finalist's portrait is exhibited and their officials, volunteers, employees, contractors, agents and servants, will not be liable for any loss or damage of whatever kind or nature to any person or property (including the Finalist's portrait) arising out of or in conjunction with:

- (a) transportation or movement of the Finalist's portrait;
- (b) negligence on the part of The Lester, the Partners or any venues at which the Finalist's portrait is exhibited and their officials, volunteers, employees, contractors, agents and servants; or
- (c) possession, control, storage, display or exhibition of the Finalist's portrait.

The Finalist is therefore encouraged and agrees to procure appropriate insurance to cover:

- (a) the portrait's transportation to and from the Youth Exhibition and any other displays or exhibitions;
- (b) possession or control of the portrait by third parties; and
- (c) the portrait during storage or display at the Youth Exhibition and any other display or exhibition of the portrait.

The Finalist hereby indemnifies and holds harmless The Lester, Partners and any venues at which the Finalist's portrait is exhibited and each of their officials, volunteers, employees, contractors, agents and servants responsible for any claims of whatever kind or nature to any person or property (including the Finalist's portrait) arising out of or in conjunction with

- (a) transportation or movement of the Finalist's portrait;
- (b) negligence on the part of The Lester, Partners or any venues at which the Finalist's portrait is exhibited and their officials, volunteers, employees, contractors, agents and servants; or
- (c) possession, control, storage, display or exhibition of the Finalist's portrait.

The Lester will exercise due care in handling and protection of the portrait.