



# THE LESTER PRIZE FOR PORTRAITURE

## TERMS & CONDITIONS | ADULT | 2020

### 1 Definitions

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

**Artist** means the person, or persons jointly, who created 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 10 July 2020.

**Collection Date** has the meaning given in clause 18.

**Collection Venue** has the meaning given in clause 18.

**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.

**Delivery Venue** has the meaning given in clause 17.

**Delivery Cut Off Date** has the meaning given in clause 17.

**Digital Exhibition** has the meaning given in clause 14.

**Entry Fee** is A\$45.00 (inclusive of GST) per portrait.

The  
Lester  
Prize

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

**Exhibition Period** means the period of 12 months from the Closing Date or such earlier date as may be notified in writing by The Lester.

**Exhibition Requirements** has the meaning given in clause 18.

**Final Judging** has the meaning given in clause 22.

**Finalist** has the meaning given to that term in clause 14.

**Finalist Portrait** means a Portrait selected by the Pre-Selection Panel in accordance with clause 14.

**Highly Commended Prize** has the meaning given in clause 13.

**Judges** has the meaning given in clause 22.

**Main Exhibition** has the meaning given in clause 14.

**Other Exhibitions** has the meaning given in clause 14.

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

**People's Choice Prize** has the meaning given to that term in clause 13.

**Portrait** means a work of art which is a portrait of an individual person or persons which was completed in the 18 months immediately preceding the Closing Date.

**Portrait Description** has the meaning given to that term in clause 11.

**Portrait Images** means the high-resolution images of the Portrait attached to the Artist's online Entry Form.

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

**Prize** means The Lester Prize 2020.

**Prize Awards** means the awards detailed and described in clause 13.

**Subject** has the meaning given to that term in clause 8.

**Subject Consent Form** means the Prize Subject Consent Form available from the Website.

**Subsequent Exhibitions** has the meaning given in clause 14.

**The Lester** means The Lester 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 past and future portraiture prizes created and organised by The Lester including those past prizes entitled 'Black Swan Prize for Portraiture'.

**The Richard Lester Prize for Portraiture** has the meaning given to that term in clause 13.

**Tony Fini Foundation Artist Prize** has the meaning given in clause 13.

**Website** means [www.lesterprize.com](http://www.lesterprize.com)

## **2 General**

These terms and conditions along with the Artist's completed Entry Form(s) and Subject Consent Form(s), form the agreement between the Artist, The Lester and the Partners which governs the entry of a Portrait into the Prize.

By submitting a completed Entry Form to The Lester, the Artist agrees to these binding 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(s) to the Artist by publishing any amended terms and conditions and Entry Form on the Website. 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.

## **3 Artist**

The Artist must be:

- (a) aged 18 years or over; and
- (b) an Australian Resident,

as at 5.00pm (AWST) on the Closing Date.

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

For the avoidance of doubt, the Artist may comprise one or more persons, all of whom must be Australian Residents aged 18 years or over.

#### **4 Entering the Prize**

To enter a Portrait in the Prize, the Artist must:

- (a) submit a completed Entry Form 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;
- (b) it attaches the Portrait Images in the correct format (TIFF, JPEG, JPG or PNG); and
- (c) it is accompanied by the Portrait Description;
- (d) except in the case of a self-portrait of the Artist, it attaches all completed and signed Subject Consent Forms.

If the Artist comprises two or more persons, one person must:

- (a) submit a completed Entry Form noting in the 'Extra Information' section the full name and mobile number of each other person who jointly comprises the Artist; and
- (b) pay the Entry Fee.

#### **5 Entry Fee**

The Entry Fee must be paid 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 Entry into the Prize on Behalf of Deceased Artists**

Portraits may be submitted for entry in the Prize on behalf of a deceased Artist by the legal personal representative (such as the executor) of the deceased Artist's estate.

The Artist's legal personal representative must complete the Entry Form and thereby agrees to these terms and conditions, other than those inherently personal to the deceased.

## **7 Number of Entries**

The Artist may enter an unlimited number of Portraits in the Prize.

A separate Entry Form must be completed and submitted for each Portrait.

The Artist agrees that if they enter more than one Portrait, only one Portrait can be selected for the Main Exhibition.

## **8 Subject**

The subject of the Portrait must be a person who is an Australian Resident, or persons who are all Australian Residents (the "Subject").

The Portrait can be as the result of the Artist's direct (in person) meeting with the Subject or through the use of a photograph of the Subject which has been approved by the Subject.

## **9 Subject Consent**

If the Portrait is not a self-portrait, each Subject must complete and sign the Subject Consent Form which must be submitted as an attachment to the Artist's Entry Form.

If a Subject is deceased, the Subject Consent Form for that person may be completed by the legal personal representative of the deceased Subject's estate.

If the Subject is not legally competent to complete the Subject Consent Form, the form must be completed by the Subject's guardian or legal personal representative.

## **10 Technical Specifications**

Sculptures, photographic works and digital media are not eligible for entry in the Prize.

The Portrait must be capable of vertical display by hanging on a wall.

The Portrait may be executed in (but is not restricted to) oil, acrylic, watercolour, pastels, textiles, pencils, charcoal, ink and mixed media.

The size of the Portrait must not exceed 4 square metres (e.g. 200cm x 200cm), including the frame with a maximum weight of 30kg and maximum width of 200cm (including the frame).

Portraits completed on paper must be framed.

Framed Portraits must use acrylic glazing or Perspex only, with non-reflective acrylic or Perspex to be used where possible.

Portraits framed with glass are not eligible.

## **11 Portrait Images and Portrait Description**

The Portrait Images must be a true and accurate representation of the completed Portrait.

The Artist must provide a brief artist statement or description of their experience of painting their Subject (maximum of 120 words) with the Entry Form (“Portrait Description”).

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.

## **12 Eligibility and Disqualification**

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 and may refuse or exclude any entry (including by excluding a Portrait from consideration by the Pre-Selection Panel or the Judging Panel or from any exhibition) which does not comply with these terms and conditions including but limited to:

- (a) incomplete or inaccurate Entry Form;
- (b) failure to provide a Subject Consent Form;
- (c) failing to comply with the Exhibition Requirements;
- (d) the Portrait selected by the Pre-Selection Panel differing from, or misrepresented by, the Portrait Images supplied with the Entry Form.

The Lester reserves the right in its absolute discretion to revoke the award of any Prize Award (and any associated privileges) and grant it to another Finalist, if the Finalist initially given the Prize Award is found to have:

- (a) provided false information to The Lester in the Entry Form or during the course of the Prize;  
or
- (b) otherwise failed to comply with these terms and conditions.

### 13 Prize Awards

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

- (a) The Richard Lester Prize for Portraiture: **A\$50,000** (Non-Acquisitive) (“The Richard Lester Prize”) awarded to a Finalist by the Judges;
- (b) People’s Choice Prize sponsored by the Baldock Family: **A\$7,500** (“People’s Choice Prize”) awarded to the Finalist with the most votes from the public;
- (c) Tony Fini Foundation Artist Prize: **A\$10,000** (“Toni Fini Foundation Artist Prize”) awarded to a Finalist by popular vote of the other Finalists;
- (d) Two Highly Commended Prizes (“Highly Commended Prize”) each comprising:
  - i) **A\$1,000** from Oxlades Art Supplies; and
  - ii) **A\$550** Domestic Art Transport gift voucher; and
  - iii) **A\$500** Arts Edge Photo & Frame gift voucher; and
  - iv) **A\$250** Oxlades Art Supplies gift voucher.awarded by the Judges to two Finalists (other than the recipient of The Richard Lester Prize).

The Artist also acknowledges and agrees that:

- (a) not all Finalists receive a Prize Award;
- (b) a Finalist may receive more than one Prize Award.

### 14 Exhibitions

By entering the Prize, the Artist grants The Lester permission to display or exhibit their Portrait, or a print or digital reproduction of their Portrait at any time during the Exhibition Period:

- (a) in an exhibition of selected Finalists for the Prize at AGWA or such other venue as The Lester may, in its absolute discretion, determine (“Main Exhibition”);
- (b) at other venues in exhibitions (including digital exhibitions) of all or some of the Finalists for the Prize following the close of the Main Exhibition, for a period of up to three months (“Subsequent Exhibitions”); and
- (c) in a digitally printed exhibition of Portraits selected from those which have not been selected for the Main Exhibition (which may be entitled the “Salon des Refusés” or the “Semi-Finalists” or such other exhibition name as The Lester chooses) at a venue and for a time period designated by The Lester in its absolute discretion (“Digital Exhibition”).

## **15 Pre-Selection Process**

A pre-selection panel consisting of 5 members with no commercial association with The Lester or its representatives will be selected by The Lester in its sole discretion (“Pre-Selection Panel”). Members of the Pre-Selection Panel may also be selected as Judges.

The Pre-Selection Panel will review the Portrait Images and select approximately 30 to 40 Portraits for the Main Exhibition. An Artist whose Portrait is selected by the Pre-Selection Panel for the Main Exhibition is a finalist (“Finalist”).

The Pre-Selection Panel’s decisions are final and no correspondence will be entered into.

## **16 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 14 August 2020. Finalists may not be notified before the media announcement and publication on the Website.

Following the media announcement and publication of the Finalists on the Website, The Lester will notify all Artists via email. It is the Artist’s responsibility to notify The Lester of any changes to their contact details.

## **17 Delivery of Finalist Portraits**

The Artist undertakes that, if the Artist is selected as a Finalist, the Finalist Portrait will be available for exhibition for the entire Exhibition Period including at the Main Exhibition and any Subsequent Exhibitions.

The Finalist is responsible for delivering the Finalist Portrait (at the Finalist’s cost) to the International Art Services (IAS) WA depot at 719 Marshall Road, Malaga WA or to such other delivery venue as is notified to the Finalist by the Lester in writing (“Delivery Venue”) by no later than 3pm (AWST) on Friday 25 September 2020 or such other cut off time as is notified to the Finalist by the Lester in writing (“Delivery Cut Off Date”).



Finalist Portraits which are not received at the Delivery Venue by the Delivery Cut Off Date will not be accepted under any circumstances and will be disqualified from The Lester Prize. No exceptions will be made.

The Finalist must ensure that the Finalist Portrait is delivered to the Delivery Venue in suitable packaging which, at a minimum, requires that the Finalist Portrait is:

- (a) fully dry before packing;
- (b) interleaved with clean (no signs of old tape or residue) Tyvek or acid-free tissue paper of adequate size to cover the face and edges of the portrait;
- (c) packed with clean bubble-wrap (bubble side out) for protection;
- (d) clearly labelled to indicate the correct way up for transport (particularly critical for framed works on paper where hinges are used to keep the work in place); and
- (e) such additional packing (such as card picture packs, tri-wall sandwich packs, crating etc) as may be required to ensure adequate protection during transport.

The Finalist acknowledges that the packaging provided with the Portrait upon delivery to the Delivery Venue will be used for the transport of the Finalist Portrait between the Delivery Venue and the various exhibition venues and for the return of the Finalist Portrait to the Delivery Venue at the conclusion of the Exhibition Period. It is the Finalist's responsibility to ensure that the packaging is suitable for reuse in this manner.

## **18 Collection of Portrait after Exhibition**

The Finalist:

- (a) must collect their Portrait (unless sold beforehand) from the International Art Services Depot (IAS), 719 Marshall Road, Malaga WA or such other site is notified by The Lester in writing (the "Collection Venue") at the conclusion of the Exhibition Period by no later than the date which is notified in writing by The Lester (the "Collection Date");
- (b) is responsible for arranging, and paying for, the packaging, collection and transport of the Finalist Portrait from the Collection Venue; and
- (c) if the Finalist uses a courier service other than IAS to transport the Finalist Portrait from the Collection Venue, must provide completed courier documentation (including delivery address) to The Lester at least 7 days before the Collection Date.

If the Finalist does not collect the Portrait from the Collection Venue by the Collection Date, the Finalist must pay a storage fee of \$5 (excl GST) per day for each day that the Portrait is held at the Collection Venue before collection.

## **19 Artwork Courier Service**

For Finalists living outside of the Perth metropolitan area, The Lester has negotiated discounted transport rates for transport of Finalist Portraits to and from International Art Services (IAS). A list of prices will be available in August 2020.

## **20 Exhibition Requirements for Finalist Portraits**

Prior to shipping under clause 17, the Finalist must:

- (a) clearly label the Finalist 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);
- (c) ensure the Portrait is in a reasonable condition for exhibiting; and
- (d) ensure the Portrait is fitted with 25mm length D-rings on the back, at 100mm from the top of the work, for ease of hanging.

Prior to Friday 24 August 2020, the Finalist must supply The Lester with accurate framed dimensions of their Portrait.

If the Finalist fails to comply with any of the requirements in this clause ("Exhibition Requirements") or the Portrait is otherwise not in a condition fit for exhibition (as determined by The Lester in its sole discretion), The Lester or its Partners may take such reasonable steps as they think appropriate to ensure that the Finalist Portrait complies with the Exhibition Requirements and/or is otherwise in a condition fit for exhibition, including by having appropriate 25mm D-rings fitted.

## **21 Curation of the Main Exhibition**

The Finalist acknowledges that the curation of the Main Exhibition and the hanging and display of the Finalist Portraits are matters for the sole discretion of The Lester, the Partners, and agents and/or staff of The Lester or the Partners. No discussion will be entered into with the Finalist concerning the display of the Finalist Portraits and the Finalist accepts that their Finalist Portrait may not be displayed in accordance with the Finalist's preferences.

## **22 Final Judging & Announcement of Winners**

The Lester will nominate a panel of three judges to award The Richard Lester Prize and the Highly Commended Prizes ("Judges"). The Judges will select the winners of those awards from the Finalist Portraits exhibited at the Main Exhibition ("Final Judging").

The award of The Richard Lester Prize and the Highly Commended Prizes are a matter for the sole discretion of the Judges and the Judges may, at their discretion, decide not to award a particular Prize Award.

The decisions of the Judges are final and no challenges will be permitted.

The People's Choice Prize will be determined by the votes of the public in accordance with the terms and conditions for that prize published on the Website.

The Tony Fini Foundation Artist Prize will be awarded by popular vote of the Finalists in accordance with the terms and conditions for that prize which will be provided to each Finalist. Finalists may not vote for their own Portrait.

## **23 Sales of Portraits**

The Artist may elect (at the time of completing the Entry Form) to allow their Portrait to be offered for sale if they are selected as a Finalist.

In accordance with section 26 of the *Art Gallery Act 1959 (WA)*, Portraits exhibited at the Main Exhibition may **not** be exhibited or exposed for the purposes of sale during the Exhibition Period; however, The Lester may, in its sole discretion, allow Portraits to be offered for sale at Subsequent Exhibitions or at the Digital Exhibition. The Artist agrees that if The Lester secures the sale of a Portrait, a commission of 30% of the selling price plus GST is payable by the Artist to The Lester.

The Lester and the prospective buyer shall liaise directly in relation to the sale of Portraits. Artists are responsible for arranging the delivery to the purchaser, at their cost, of any Portrait which is sold.

## **24 Title, Insurance & Liability**

Nothing in these terms and conditions transfers ownership of the Portrait to The Lester.

The Artist agrees and acknowledges that:

- (a) The exhibition of the Portrait in a public venue (such as the Main Exhibition) is subject to risks including risks due to the unforeseen actions of the public;
- (b) Neither The Lester nor any of its Partners will insure the Portrait against loss or damage, however sustained;
- (c) The Artist is solely responsible for insuring the Portrait against loss or damage while in transit or in the custody or control of The Lester, its Partners, any exhibition venues or their officials, volunteers, employees, contractors, agents and servants.

To the extent permitted by law, The Lester, the Partners, any venues at which the Portraits or Portrait Images are 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 any Portrait) arising out of or in conjunction with:

- (a) The conduct of the Prize and any associated exhibitions, including any promotional activities and publications; or
- (b) The transport, unpacking or packing, storage, installation, exhibition, display, installation or de-installation of any exhibition of any Portrait.

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

- (a) the Portrait's transportation to and from the Main Exhibition, Subsequent Exhibitions, the Salon des Refusés and any other displays or exhibitions;
- (b) any loss or damage sustained while the Portrait is in the possession or control of any third party including but not limited to The Lester and its Partners; and
- (c) the Portrait during storage or display at the Main Exhibition, any Subsequent Exhibitions and any other display or exhibition of the Portrait.

## **25 Intellectual Property**

- (1) The Artist retains all intellectual property in any Portrait entered in the Prize and nothing in these terms and conditions shall transfer, alter or assign that intellectual property.
- (2) The Artist acknowledges, agrees and warrants that in respect of any images (including the Portrait Images) submitted by the Artist to The Lester:
  - (a) the Artist is the owner of copyright in those images or has a licence of copyright from the owner and is authorised to permit, and does permit, the use of those images for the purposes disclosed in these terms and conditions 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, electronic or digital;

- (b) Where the author of any image is not the Artist, the Artist has secured the consent of the author to:
- i) The Lester and the Partners using those images in any way in relation to promotion and conduct of The Lester Prize (including in connection with associated educational activities or programs); and
  - ii) The use of those images without attributing the author as the author.
- (3) If the Artist's Portrait is selected for the Main Exhibition, Subsequent Exhibitions or the Digital Exhibition, the Artist hereby grants to:
- (a) The Lester a perpetual, non-exclusive, royalty-free, worldwide licence (including the right to sub-licence);
  - (b) the Partners a 1 year, non-exclusive, royalty-free, worldwide licence; and
  - (c) AGWA a 3 year, non-exclusive, royalty-free, worldwide licence, 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 the Portrait, the associated Portrait Images and the Portrait Description for the purposes of:
    - i) displaying or exhibiting in any way, including in a print, electronic or digital form, the Portrait, images of the Portrait, the Portrait Images and or the Portrait Description;
    - ii) determining the winners of the Prize Awards;
    - iii) 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;
    - iv) publications on the Website, the Partners' websites and or social media including archiving the exhibition page on the AGWA website ([www.artgallery.wa.gov.au](http://www.artgallery.wa.gov.au));
    - v) production of electronic, digital and print media, such as but not limited to, exhibition books featuring the portrait, images of portraits entered in The Lester Prize, the Portrait Images and or the Portrait Description;
    - vi) education; and
    - vii) any other uses as may be required by The Lester to comply with its obligations under these terms and conditions.

- (4) The Artist acknowledges and agrees that in the event the Portrait is selected for the Main Exhibition or the Digital Exhibition:
- (a) the Portrait may be photographed by visitors to the exhibition;
  - (b) the Portrait may be photographed by media and used in media and public communications; and
  - (c) third party websites may promote the display or exhibition of Portraits entered into The Lester Prize.

## **26 Moral Rights**

While The Lester and the Partners will endeavour to respect the moral rights (as provided in the *Copyright Act 1968* (Cth)) of the Artist wherever practicable, the Artist acknowledges that in some instances it may not be possible for The Lester or the Partners to attribute the Artist when the Portrait is displayed or reproduced.

The Artist consents to The Lester and the Partners not including the Artist's name in relation to the Portrait where the Portrait is displayed or reproduced, in any format, on printed and social media platforms or in any media or press releases.

The Artist must provide correct details of the photographer and appropriate image courtesy credit for any images of the Artist or the Portrait (including the Portrait Images) supplied to The Lester and confirms that the Artist has obtained the consent of the photographer to the use of those images without crediting the photographer as author where it is not practicable to do so.

## **27 Warranties**

The Artist agrees and warrants that:

- (a) the Portrait is the Artist's original work and does not breach the intellectual property rights of any third party;
- (b) all information provided to The Lester in the completed Entry Form and in the course of the Prize is true and correct;
- (c) the Portrait was completed by the Artist within the 18 months immediately preceding the Closing Date;
- (d) the Portrait Images are true and accurate representations of the Portrait;

- (e) The Lester and its Partners are entitled to use, reproduce and communicate any images supplied by the Artist to The Lester and the author of those images' consents to the use of those images in connection with The Lester Prize without attribution;
- (f) the Artist is the owner of the Portrait or has the permission of the owner who has consented to, and agrees to, all these terms and conditions;
- (g) the entry of the Portrait into the Prize, including any subsequent sale of the Portrait (if the Artist elects to make the Portrait available for sale), will 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); and
- (h) if the Artist is selected as a Finalist:
  - i) the Artist will comply with clauses 17 and 18 relating to delivery and collection of the selected Portrait;
  - ii) the selected Portrait will be available for exhibition pursuant to clause 14.

## **28 Indemnity**

The Artist releases each of The Lester, its Partners, exhibition venues, and each of their officers, volunteers, employees, contractors, agents and servants from all claims against them arising out of the conduct of The Lester Prize including but not limited to the award of the Prize Awards.

The Artist indemnifies each of The Lester, its Partners, exhibition venues, and each of their officers, volunteers, employees, contractors, agents and servants against all claims, actions, proceedings, judgments, damages, losses, expenses or liabilities incurred or suffered by any of them arising directly or indirectly:

- (a) out of the entry of the Portrait in the Prize; or
- (b) as a result of any breach of the warranties in clause 25.

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

## **29 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.