

Manitoba Arts Council Terms and Conditions of Access

The **Terms and Conditions of Access** ("**Terms**") are established by the Manitoba Arts Council ("**MAC**"), a corporation established by Manitoba law and form a legally binding agreement with you, the user, governs your use of the MAC Online Application System.

These Terms form a legally binding agreement between you and MAC concerning your use of the MAC Online Application System. These Terms are in addition to any other legal agreement that you enter into with MAC. **By clicking "I AGREE" below, you hereby confirm and agree that you have read, understood and agreed to these Terms. If you do not agree to these Terms, you may make no use of the MAC Online Application System.**

Terms

1. **Profile.** MAC has set reasonable precautions to ensure that only authorized persons can log in to the MAC Online Application System. You must create a user Profile in order to access and use the MAC Online Application System. Accordingly, we require that you provide us with certain information, including personal information, in order to establish your Profile. We will use this information for the purposes of establishing and administering your MAC Online Application System Profile, making decisions concerning your grant application, communicating with you and, in connection with any funds, recovery where necessary. MAC will not make any additional uses or disclosures of your personal information without your consent unless required or permitted by applicable laws.

You acknowledge that MAC is relying upon your current personal information in connection with your user account and you hereby undertake to immediately advise MAC should any of your personal information change at any time during the term of these Terms.

2. **Non-Transferrable.** You acknowledge that your MAC Online Application System user Profile is personal to you and is not transferrable; you may not use your user Profile in connection with or for the benefit of any other person.

3. **User Name and Password.** You will be required to set a user name (email address) and password as part of your registration for the MAC Online Application System. You are required to keep your user name and password confidential and you agree that you will not allow any other person to use your Profile, your user name nor your password and that you will not disclose same to any person. You undertake to advise MAC immediately if your user name or password have been disclosed to any other person or

if you suspect your MAC Profile may be compromised. MAC reserves the right to suspend or terminate your MAC Profile at any time.

4. Profile Activity. You acknowledge that you are solely responsible for all activity and actions made through your MAC Profile. It is your obligation to monitor your MAC Profile activity and to advise us immediately of any issues concerning your MAC Profile.

5. Access to the MAC Online Application System. You agree that you will use the MAC Online Application System only for its intended purposes, namely to permit you to find information concerning MAC programs and arts-related information, MAC grants including without limitation grant amounts, grant terms, eligibility guidelines etc., submitting your MAC grant application, receiving information and communications concerning your grant application status and results, and administering your MAC Online Application System Profile. You confirm that you are prohibited from and will not use the MAC Online Application System to do any of the following:

(i) engaging in any action or activity that would negatively impact the operation of the MAC Online Application System;

(ii) restrict or inhibit any other user from using and/or enjoying the MAC Online Application System;

(iii) post or transmit any unlawful, illegal, obscene or pornographic information or images of any kind, including without limitation, any transmissions constituting or encouraging conduct that would constitute a criminal offense, give rise to civil liability or otherwise violate any local, provincial, national or international law;

(iv) use or post information, materials, documents or otherwise that would infringe the intellectual property rights of any person;

(v) upload, post, publish, transmit, reproduce, distribute or participate in the transfer or sale, or in any way exploit any information, software or other material obtained through the MAC Online Application System which is protected by copyright and other proprietary rights or make any derivative works with respect thereto, without obtaining the prior written permission of the copyright owner or right holder.

6. Additional Obligations. In addition to any of the foregoing, you also hereby confirm that during the term of these Terms, you will take all reasonable measures to ensure that accurate information is recorded in the MAC Online Application System, and that you will not:

(i) interfere with or disrupt the MAC Online Application System;

(ii) attempt to gain unauthorized access to the MAC Online Application System, or the user name or password of others;

(iii) use the MAC Online Application System in any manner whatsoever that could disrupt the normal flow of MAC business.

7. Grant Applications and Decisions. You acknowledge and agree that you must meet all grant application eligibility criteria when submitting an application to MAC for

grant funding. Your application must be clear and complete. You acknowledge that there are inherent risks in communicating through electronic systems and MAC is not responsible for any inability to submit an application or receive communications at any given time or for any system errors. In order to accept an awarded grant, you must comply with all of the specifications set out in the General Guidelines and Program Guidelines. You understand that all decisions reached by MAC in connection with any grant applications shall be final and binding

8. Limitation of Liability. MAC does not guarantee that the MAC Online Application System shall at all times be available and operating, and reserves the right to amend or remove certain features or functions in its discretion at any time.

You acknowledge and agree that we shall not be liable to you, your heirs, successors, legal representatives or permitted assigns for your use of the MAC Online Application System or any inability to access or use the MAC Online Application System. All uses are at your sole risk.

9. Indemnity. You agree to defend and hold harmless MAC and its affiliates, and their respective directors, officers, employees and agents from and against any and all liabilities, costs and expenses, including reasonable lawyer's fees and disbursements arising from: (i) your use of the MAC Online Application System or the placement or transmission of any messages, information, software or other material through the MAC Online Application System; (ii) negligent acts or omissions by you in connection with the installations, use or maintenance of the MAC Online Application System; (iii) claims for infringement of patents arising from the use of the MAC Online Application System by you; (iv) misuse of Trademarks; and (v) claims of copyright infringement resulting from the use of the MAC Online Application System by you.

10. Monitoring. MAC may elect to electronically review your use and access of the MAC Online Application System and reserves the right to suspend or terminate your MAC Online Application System user account should you fail to comply with any obligations set out in these Terms.

11. Termination and Modification. MAC reserves the right to update or amend these Terms at any time upon notice to you, which notice to you will be provided by way of communication through your MAC Online Application System user account. It is your responsibility to read such notices, which shall be final and binding upon issuance by MAC, and which shall form part of this Agreement. Your continued use of the MAC Online Application System shall constitute your binding acceptance of any such updates or amendments.

MAC may cease to operate the MAC Online Application System, remove or change any feature of its services, terminate user access or suspend user access to all or part of the MAC Online Application System, all in its sole discretion. MAC may immediately

suspend or terminate your MAC user account, and without notice, should you fail to comply with these Terms or violate applicable law.

Upon termination, for whatever reason, you shall immediately cease all use of the MAC Online Application System.

12. **Audit.** You hereby agree that you shall cooperate with MAC and its contractors or auditors in any investigation into a breach of these Terms.

13. **License.** Access to the MAC Online Application System is not sold, but licensed to you for your authorized use of submitting an application to MAC. This license is for the period beginning with your acceptance of these Terms until your account is terminated, either by the provision of notice by you or by MAC under this agreement. This license is granted on a limited and non-exclusive basis and you may not at any time: (i) copy any of the MAC Online Application System; (ii) distribute, rent, sublicense or otherwise transfer or disclose, or transmit the MAC Online Application System to any person or entity; (iii) modify, translate, merge or prepare derivative works of the MAC Online Application System; or (iv) use any of the MAC Online Application System for other purposes not specified in these Terms or the documentation. You may not decompile, disassemble, probe, or otherwise reverse engineer the MAC Online Application System.

14. **Trademarks.** The trademarks and logos (the "Trademarks") used and displayed on the MAC Online Application System are registered and unregistered trademarks of MAC and others. Nothing on the MAC Online Application System or these Terms should be construed as granting, by implication, estoppel, or otherwise, any license or right to use any Trademarks displayed on the MAC Online Application System without the permission of the Trademark owner. Trademarks may not be used in any way without the prior written permission of MAC. MAC prohibits use of any MAC Trademarks as a "hot" link to this MAC Online Application System without prior written permission of MAC.

15. **Copyrights.** The copyright in all material provided on the Mac Online Application System is held by MAC or by the original creator of the material. Except as stated herein, none of the material may be copied, reproduced, distributed, republished, downloaded, displayed, posted or transmitted in any form or by any means, including but not limited to electronic, mechanical, photocopying, recording or otherwise, without the prior written permission of MAC or the copyright owner. You also may not without prior written permission from MAC, "mirror" any material contained within this MAC Online Application System.

16. **Equipment.** You, at your own expense, shall obtain and maintain, and operate suitable equipment, communication devices, and services required to access to the MAC Online Application System. You must have, at a minimum, access to Internet service and an email address.

17. **Disclaimer of Warranty: Limitation of Remedies. MAC IS LICENSING THE MAC ONLINE APPLICATION SYSTEM "AS IS" AND "AS AVAILABLE". YOU ASSUME TOTAL RESPONSIBILITY AND RISK FOR YOUR USE OF THE MAC ONLINE APPLICATION SYSTEM AND YOUR USE OF THE INTERNET. MAC HEREBY DISCLAIMS ALL REPRESENTATIONS AND WARRANTIES, EXPRESS OR IMPLIED, STATUTORY OR OTHERWISE, INCLUDING BUT NOT LIMITED TO THE IMPLIED WARRANTY OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR**

PURPOSE WITH REGARD TO THE MAC ONLINE APPLICATION SYSTEM AND ANY INFORMATION OR MATERIALS PROVIDED AS PART THEREOF. IN NO EVENT SHALL MAC BE LIABLE FOR ANY SPECIAL, INDIRECT OR CONSEQUENTIAL DAMAGES OF ANY KIND, OR ANY DAMAGES WHATSOEVER RESULTING FROM YOUR INABILITY TO USE THE MAC ONLINE APPLICATION SYSTEM FOR ANY REASON, OR FOR ANY LOSS OF USE, DATA OR PROFITS, WHETHER OR NOT ADVISED OF THE POSSIBILITY OF DAMAGE, AND ON ANY THEORY OF LIABILITY, ARISING OUT OF OR IN CONNECTION WITH THE USE OR PERFORMANCE OF THIS INFORMATION.

18. **Governing Law.** These Terms and your use of the MAC Online Application System are governed by the laws of the Province of Manitoba and the federal laws of Canada applicable hereto. The parties irrevocably attorn to the jurisdiction of the courts of the Province of Manitoba with respect to any dispute relating to the subject matter of this agreement.

19. **Links to Third Party Sites.** The MAC Online Application System may contain links to third party websites and content. The linked sites are not under the control of MAC and MAC is not responsible for the contents of any such linked sites or content, all of which will be subject to third party terms, conditions and policies. It is your responsibility to carefully review those terms, conditions and policies when visiting such linked sites or content. No link to a third party site or content shall be deemed an endorsement from MAC.