

# ■ Regulation for Use of Image Archives

[revised August 2016]

DNP Art Communications Co., Ltd. (hereinafter called "Our Company") is doing a business to loan image data, films and prints of art works collected by art museums, other types of museums and art galleries both inside and outside Japan. This Regulation sets forth terms and conditions for use of image archives (hereinafter called "this Regulation") relating to our rental services of image archives and use of the image archives website: <https://images.dnpartcom.jp/>.

This Regulation comprises umbrella provisions commonly applicable to services of our company and individual terms and conditions of each service. In addition, there are guidance for use of the website, general instructions and the Privacy Information Policy which are uploaded on the website. They constitute parts of this Regulation.

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## 1. Umbrella Provisions

### (1) Application

Umbrella provisions shall be applied to relationship between our customers and our company relating to our services, in addition to individual terms and conditions of each service.

When this Regulation is different in contents from explanations on services not contained in this Regulation, this Regulation shall prevail in principle.

Individual terms and conditions, and special provisions contained in this Regulation shall be applied in the order of (i) special provisions and (ii) individual terms and conditions. They prevail other types of provisions of this Regulation.

### (2) Definition

In this Regulation, the following terms shall mean as follows.

- (i) "Our Service" shall mean the service of our company which is called "image archives." When there is a change in the name or content of the service, such change shall be included in our service, irrespective of reasons for change.
- (ii) "Regulation" shall mean the entirety of the Regulation for Use of Image Archives, or parts of the Loan Terms and Conditions or the Website Terms and Conditions.
- (iii) "Works" shall mean art works collected by art museums, other types of museums, art galleries, universities and individual persons both inside and outside Japan.
- (iv) "Images" shall mean duplicated images of works, irrespective of whether they are tangible or not, including digital data, films, prints and other media.
- (v) "Collectors" shall mean art museums, other types of museums, art galleries, universities, individual persons and others that provide our company with the images of the works under a loan agreement which grants our company a license to use the images.
- (vi) "Copyrights" shall mean the rights provided for in Article 21 through Article 28 of the Copyright Act.
- (vii) "Copyrights or the like" shall mean the rights and the neighboring rights provided for in Article 18 through Article 28 of the Copyright Act.
- (viii) "Intellectual Property Rights" shall collectively mean copyrights or the like, industrial designs, trademarks (covering both registered and/or granted rights and rights to apply for registration and/or grant), portrait rights and rights of publicity, and other forms of intellectual property rights.
- (ix) "Proprietors" shall mean the holders of intellectual property rights.
- (x) "Loan Terms and Conditions" shall mean parts of the Umbrella Provisions of this Regulation and the Loan

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Terms and Conditions, so far as they relate to the rental service for images.

(xi) "Loan Agreements" shall mean individual contracts relating to rental service of our company. They shall be based on the Loan Terms and Conditions.

(xii) "Objective Items" shall mean duplicated images made or prepared at the cost of customers, for which customers are responsible. They are specified and identified in the Loan Agreements.

(xiii) "End Users" shall mean persons who display, exhibit, distribute or assign the objective items under their responsibilities and names.

(xiv) "Website Terms and Conditions" shall mean umbrella provisions of this Regulation and provisions of the Website Terms and Conditions which relate to services of our company to provide customers with functions contained in the website.

(xv) "Registered Users" shall mean individual persons or corporate persons who have registered data on the website in accordance with the Website Terms and Conditions.

### (3) Intellectual Property Rights

All of the Intellectual Property Rights relating to this website and our services belong to our company or proprietors who have granted relevant licenses to our company. Anyone who wants to use contents from the website, a permission is necessary under individual terms and conditions or conditions which our company may offer separately. Use of website contents beyond the scope allowed under the laws and regulations shall be deemed a violation of the intellectual property rights. Appropriate awareness is recommended.

### (4) Forbidden Affairs

Our company shall not allow any conduct on the website or use of information on the website as specified below:

(i) Duplication, adaptation, distribution, assignment, lease, transmission and acts to make transmittable, of website contents including images, movies, texts and other components without permission of our company in the prescribed manner;

(ii) Fraud or coercive acts against our company, collectors, proprietors or third parties;

(iii) Character assignation against our company, collectors, proprietors or third parties, or acts of defamation or damages to credit against them;

(iv) Transmission of information containing computer viruses and other harmful computer programs;

(v) Acts to give excessive burdens on the network or system of this website, or other acts which may disturb the operation of this service.

(vi) Unfair access to the network or system of this website, or any trial to unfairly access to them;

(vii) Spoofing or willful use of IDs or passwords of other registered users.

(viii) Acts that violate laws and regulations or public order and morals, or conducts which may cause such acts; and

(ix) Acts and conducts which may be found inappropriate by our company.

### (5) Damages

When a user engages in either of the forbidden affairs, or uses images provided from website contents or by images obtained from this service without a prior approval of our company, such user shall be responsible for all costs and expenses caused on the part of collectors and proprietors of such contents or images (including litigation costs and attorney fees) and damages.

### (6) Disclaimer

Our company shall not be responsible for the consequences caused by changes in contents, and interruption, suspension or termination of the provision of this service.

Even if our company is found responsible for damages for certain reasons, the amount of damages shall not exceed the actual amount of payment to our company by our customer for the services which caused the damages.

Our company shall not be responsible for ancillary damage, indirect damage, special damage, future damage and damage caused by lost profits.

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#### (7) Privacy Information of Customers

Our company shall treat customer information which is acquired for the offer of this service to our customers in accordance with provisions of the Policy for Protection of Privacy Information.

#### (8) Changes of Provisions

Our company has discretion to change and alter provisions of this Regulation. Such change shall be effective when it is available on this website. When customers use this service after availability on the website, it is presumed that the customers have agreed to the change of this Regulation.

#### (9) Applicable Law and Jurisdiction

The applicable law to this Regulation and relevant contracts between our customers and our company is Japanese law. Jurisdiction of disputes arising out of or relevant to this Regulation or other contracts shall be Tokyo District Court as the exclusive court of first instance mutually agreed upon by the parties.

### 2. Loan Terms and Conditions

#### (1) Application for use

When a customer wants to use an image, the customer shall be required to send our company an application form with entries such as the user name, and purpose, duration and manner of use.

Upon receipt of the application form, our company shall issue a written estimate to inform the applicant of the fees for such use. When the written estimate is agreeable to the customer, a loan agreement shall be constituted and our company shall loan the required image to the customer along with a loan certificate.

#### (2) Scope of use

The image can be used non-exclusively in Japan by the user, in compliance with the purpose, frequency, duration and manner of use described in the loan certificate. The period of use shall not exceed one year from the date of the loan certificate.

If the user wants to continue its use after one year period, the user has to apply again. If the customer wants to changes loan conditions, the period of use or the number of copies to be made, for example, the user shall be required to send another application form to our company.

#### (3) Partial use and trimming

It is not allowed to use the image in a manner so as to harm the reputation of a work and its creator. When a customer wants to provide changes to the loaned image including trimming or partial use, our company shall ascertain in advance how the image are to be used by the customer. Upon ascertainment, the requested image shall be on loan. When partial use is sought, the customer has to print "PARTIAL" (or ) on the application form. In that occasion, the customer has to attach a general view to the application form.

#### (4) Intellectual property rights

Our company does not retain the intellectual property right on each work. Unless otherwise specified in the written estimate or loan certificate, loan of images does not mean the license or transfer of the intellectual property right on each work.

Unless otherwise specified in special provisions or written estimate, a customer has to obtain permission for use of a work from its proprietor at the expense and responsibility of the customer. When copyright is valid for a work in a country or region where use of its image is sought, our company shall loan the image to the customer provided that the customer shows evidences that the copyright holder or copyright administrator to the work has authorized use of the work by the customer.

#### (5) Denial of guarantee

Our company shall guarantee that our company has a title to loan images under this Regulation. However, our company shall NOT guarantee that use of a work causes infringement of any rights including third party's intellectual property rights. Likewise, our company shall not present or guarantee anything about the quality of the objective items.

#### (6) Limitation of use

It is not allowed to use the loaned image for purposes not described in the loan certificate, for purposes against public order, and for illegal purposes. There are cases where collectors set a field of use limitation. In that case, our company may not afford to loan images if intended use of them falls within the limitation of collectors.

#### (7) Defects in images and data

Our company shall make best efforts to verify the quality of images before their delivery to our customers. If images received by our customers are not what they have wanted, or if images are somehow damaged or injured, our company shall replace defective images with new ones at the expense of our company. In such case, however, a claim for replacement has to be made within one week from the day of invoice. Silence during the week shall constitute an acceptance that the images received by the customers are satisfactory and free from any damage and injury.

Our company shall not represent or guarantee that color tones, image quality and marginal configurations of images are exactly the same as those of the original works. Difference in images components, if any, shall not cause our company to be responsible for replacement or repair.

Responsibility of our company for image quality and defects shall be limited within the scope which is described in this Regulation, irrelevant to the medium of loaned images.

#### (8) Notice

Objective items must include specific notices which are designated in the loan certificate, including authors/creators, names of works, collectors and necessary credits, and a warning to prohibit duplication without permission. Our company shall NOT be responsible for captions and narrations with regard to the work used on the objective items.

#### (9) Specimen

When an image is used on the objective item, please prepare two sets of printed samples or photo pictures of the items and send them to our company. When a commercial product is manufactured more than one time using the image, please prepare two sets of specimen for each manufacturing step and send them to our company.

#### (10) Report

When a commercial product is manufactured more than one time using an image on loan, a report of use has to be sent to our company by the fifth business day of each month covering the use in the previous month. Even if the image on loan was not used, the customer in principle has to report of no-use by the fifth business day of the month following the month when the image was loaned.

#### (11) Return of loaned media

In principle, tangible media including CD-R, positive films and mono color prints have to be returned within three (3) months or before termination of the period for loan, whichever comes earlier. Our customers shall pick up fees and costs for the return. Image data stored or duplicated images for use other than purposes described in the loan certificate shall be kept in strict confidence. They have to be erased or destroyed without delay upon termination of the period for use.

When our customer cannot send back digital media such as CD-Rs or positive films and mono color prints due to physical damage or misplacement, our customer shall compensate it with the payment of fifty thousand (50,000) yen per image without tax.

#### (12) Breach

When an image on loan is used for items which do not fall within the class of the objective items described in the loan certificate, or when it has been used to breach this Regulation or has a likelihood of causing a breach, our company has discretion to cancel the permission of use by our customer. In such occasion, subject to our instructions, our customer shall be required to dispose of or delete the duplicated images prepared or made in violation of the loan certificate. Even if any damage arises against our customer by this disposition or deletion, our company shall NOT responsible for them. Our customer, on the other hand, shall be responsible for such violation, and pay fees, costs and damages to our company, collectors, proprietors and third parties accordingly.

#### (13) Compliance

Our customers shall be in compliance with relevant laws and regulations relating to the use of works, including the Copyright Act, the Trademark Act and the Product Liability Law. It is mutually agreed that our customers shall be solely responsible for the quality of the objective items and the licenses under relevant intellectual property rights and other legislations.

#### (14) Fees and payment conditions

Written estimates issued by our company shall be binding with regard to the fees for using images on loan and making a copy of data, duplications, mono color prints, or overseas purchase/delivery as well as payment therefor. In principle, payments by our customers shall be to the bank account designated in the bill to be issued by our company within thirty (30) days from the date of bill. Our customers are responsible for bank charges for their payments. In case of payments from overseas, our overseas customers have to pay a fixed amount of five thousand (5,000) yen as the bank charge in Japan.

If no payment is made by the due date, our company shall suspend to send delivery of images until the due amount is paid. Once payment is made, our company shall not return it for whatever reasons. Even if an image on loan is not used, responsibility for payment for use and fees for delivery and others shall remain on the part of our customers.

#### (15) Special provisions

[On Images provided by the Museum of Fine Arts, Boston]

In order to obtain permission, it is necessary to send a copy of the proof sheet of the objective item to the Boston Art Museum in advance. Therefore, please send our company one copy of the proof sheet for that purpose. If the Boston Art Museum is not agreeable to the proof sheet, our customer cannot proceed to the production of the objective item, for which our company shall NOT be responsible.

[On Images provided by Bridgeman Images, London]

Fees for images include royalty in Japan for copyrights to the work described in the loan certificate. However, they do not necessarily cover royalties to intellectual property rights of writings, trademarks, portraits, etc. of third parties. It is recommended that our customers clear infringement risk of third parties' intellectual property rights at their own costs and responsibilities before they use the image on loan for the objective items. If necessary, it is suggested to obtain a necessary license.

Provision of changes to images on loan including image-cut, edition, fixation, over printing or combination with other images shall not be available without prior permission of the Bridgman Images.

[On Images provided by The Tokugawa Art Museum, Nagoya]

Please see the pdf file linked to the [Image Archives Loan Regulations of the Tokugawa Art Museum.](#)

[On Images provided by the Tokugawa Museum, Mito]

Please see the pdf file linked to the [Image Archives Loan Regulations of the Tokugawa Museum, Mito](#)

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[On Images provided by Seikado Art Museum]

Please see the pdf file linked to the [Image Archives Loan Regulations of the Seikado Art Museum.](#)

### 3. Website Terms and Conditions

#### (1) Function of this website

When our customers agree to this Regulation, the customers can use the functions on the website free of charge. However, the customers have to pick up expenses to procure equipment and communications lines to connect with the website, and fees for their maintenance as well.

- (i) Registration of user account
- (ii) Use of the Lightbox function
- (iii) Transmission of the order form for images
- (iv) Use of function to download images (only in case of registration of user account)
- (v) Order of unregistered contents (using the inquiry form)

#### (2) Registration of user account

When our customers agree to comply with this Regulation and provide our company with individual information stipulated in the Privacy Information Policy in the manner prescribed by our company, our customers can request our company to register their user accounts to receive our services.

Our company shall decide whether to register the user accounts based on our own standards. When our company decides to register them, our company shall so inform our customers. Registration shall be completed when our company informs our customers of our decision hereunder.

Our company has discretion to refuse registration of user accounts or re-registration when our customer falls under any one of the following. In that case, our company shall not have obligations to disclose reasons for refusal.

- (i) When registered information supplied to our company includes fraudulent, inaccurate or missing piece of information;
- (ii) When our customers are minors or persons who need legal supports, and when they have failed in obtaining consent or approval from their legal representative or supporters;
- (iii) When our company judges that our customers are anti-social forces including members of gangsters and ultra-rightist groups, or they have and have had contacts or relationship with anti-social forces, thereby to help them to survive and maintain its forces by way of supporting with funds and others;
- (iv) When our company judges that our customers are persons who breached agreements with our company in the past or persons concerned; and
- (v) When our company judges that registration is inappropriate.

#### (3) Obligations of Registered Users

When registered users want to change items to have been entered in the user account registrations, they shall inform our company of changes without delay in the manner prescribed by our company.

Registered users shall adequately administer and keep in custody their passwords and user IDs in connection with this service. They are not allowed to let third parties to use them, or to loan, assign, change the holder names, and trade them.

With regard to damage and injury caused by maladministration of passwords or user IDs, mistaken handling, or uses by unauthorized users, each registered user shall be responsible for such damage and injury. Our company shall NOT be responsible for whatever reasons.

#### (4) Cancellation of User Account Registration

Our company shall have discretion to cancel user registrations without prior notice, when and if either of the following takes place:

- (i) When either of the provisions is breached;
- (ii) When fraudulent facts are found in the registration;
- (iii) When our service has not been used for more than six (6) months;
- (iv) When no answer is made to our inquiries and requests for more than thirty (30) days; and
- (v) When either of the reasons for refusal of the user account registration and re-registration is met.

Our company shall NOT be responsible for damage and injury caused to our customers by acts which our company has conducted according to this Regulation.

When registered users want to erase or delete information entered into the user account registration, they are required to contact our company through the inquiry form on the website.

#### (5) Lightbox

Our customers are able to store and manage retrieved images in each sector of projects by using the function of the Lightbox on this website.

The Lightbox to our customers shall be erased when the duration period of the session has been terminated or Cookie has been eliminated.

#### (6) Order Form for Images-Loan

Our customers who want to use our image loan service are able to offer the service using this website if they are agreeable to this Regulation and having provided information as prescribed by our company in the manner prescribed by our company.

Our company, based on our standard, shall decide whether to supply our loan services. Then our company shall inform our customers a written estimate of loan fees, manner of image loan and other information.

When our customers place an order to our company in the prescribed manner, the loan agreement shall be constituted subject to the Loan Terms and Conditions and terms and conditions of our written estimates.

#### (7) Downloading of Images

When the Loan Agreement specifies downloading as the way to get images, our company shall inform our customers of information for image-downloading.

Our customers are suggested to access the webpage for image-downloading. With their own user IDs and passwords, our customers are suggested to download images within prescribed period of time.

Any image which is downloaded from the website can only be used within the scope of the Loan Agreement. It is not allowed to use it for other purposes. It is not allowed to let a third party to use it through duplication, assignment, rent or any other means beyond the scope permitted by the Loan Agreement.

After the expiration of the duration period under the Loan Agreement, our customers are required to destroy and delete images which have been downloaded from the website.

#### (8) Order of unregistered contents (using the inquiry form)

Our customers may ask whether images which are not registered on the website can be on loan through the inquiry form on the website.

Upon receipt of such inquiry, our company shall answer our customers by way of e-mail, telephone and other

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possible means.

(9) Hold, Change and Termination of Services

Our company may change contents of this service for its own reasons. Our company may stop or interrupt, or terminate supply of this service wholly or partly.

(10) Disclaimer

Our company shall NOT be responsible for consequences which are to be caused by suspension, stop, termination, unavailability or change of our services, removal from user registrations, erasing of the Lightbox or disorder of equipments or consequences.

[Effective on August, 1, 2016]

With regard to details of the Privacy Information Policy, please contact to the Information Security Promotion Office separately.