



**Culture First.**  
Supporting Aboriginal  
Art Centres of  
Central Australia



**sam**  
stories art money

[digitallabelling@desart.com.au](mailto:digitallabelling@desart.com.au)

<https://new.sam.org.au>

## SAM Web Plugin by Desart - Order Form

To subscribe to the SAM web plugin by Desart, complete and return this form to [help@sam.org.au](mailto:help@sam.org.au). You will then receive an invoice, and upon payment receive a link to download the plugin and installation instructions.

### Organisation Details

Contact Person: \_\_\_\_\_

Organisation (art centre): \_\_\_\_\_

ABN: \_\_\_\_\_

Organisation Address: \_\_\_\_\_

Telephone: \_\_\_\_\_

Email: \_\_\_\_\_

Billing Email (if different to above) \_\_\_\_\_

(for invoices and subscription)

SAM web plugin commencement date: \_\_\_\_\_

(The date you wish to receive the plugin link. This is when your invoice will be due )

### Fees and Payment Terms

Signup Fee: (one off) \$199\*

Subscription fee: \$25\* per month

Shopify Extension

### Agreement

Woocommerce Plugin

I agree to pay the SAM web plugin signup fee of \$199\*.

I agree to pay the subscription fee:

Select preferred payment option below

\$25\* per month.

\$300\* per calendar year\*\*.

I have read and agree to the SAM Plugin & extension End User Licence Agreement

I understand that this order does NOT include installation or setup services.

Signed \_\_\_\_\_

Name \_\_\_\_\_

Date \_\_\_\_\_

\*ex gst. Plugin fees DO NOT include installation or setup, this needs to be done by Art centre or a third party developer. Monthly subscriptions can be cancelled with 1 months notice. \*\*Yearly subscriptions can be cancelled on expiry only.

## **SAM PLUGIN & EXTENSION END USER LICENCE AGREEMENT**

### **IMPORTANT – READ CAREFULLY**

Your installation or use of the SAM Plugin or Extension is expressly conditioned on your acceptance of these terms and conditions.

## **1 What Are These Terms?**

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### **1.1 This Agreement**

These terms form part of a legally binding agreement (**Agreement**) between you and Desart Inc ABN 59 056 947 372 (**Desart**).

### **1.2 How Do I Enter Into This Agreement?**

- (a) You enter into this Agreement, as a Customer or User or both, when you:
  - (i) click “I Agree” in the online acceptance process; or
  - (ii) install, activate or use the Plugin or Extension, whichever occurs first.
- (b) You are a **Customer** if you are an art centre or other organisation that:
  - (i) holds a current subscription to the SAM Platform; and
  - (ii) has installed, or authorised the installation or use of, the Plugin or Extension for your business purposes.
- (c) You are a **User** if you install, activate or use the Plugin or Extension.
- (d) If you are not the Customer, then the Customer is the art centre or organisation that has authorised you to use the Plugin or Extension.

### **1.3 Relationship to SAM EULA**

- (a) This Agreement:
  - (i) applies in addition to SAM EULA; and
  - (ii) governs use of the Plugin or Extension only. The SAM EULA continues to govern use of the SAM Platform.
- (b) If there is any inconsistency between this Agreement and the SAM EULA, the SAM EULA prevails to the extent of the inconsistency.

### **1.4 Commencement Date**

This Agreement commences on the Commencement Date and continues for the Plugin Subscription Term, unless terminated earlier in accordance with this Agreement.

## **2 Definitions and Interpretation**

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### **2.1 Definitions**

In this Agreement, unless the context requires otherwise:

**Commencement Date** means the date you first install, activate or use the Plugin or Extension.

**Customer** has the meaning given in clause 1.2 above.

**Customer Data** means any data, content or information submitted to or accessed by the Software in connection with the Customer's use of the Software.

**Documentation** means any user guides, installation instructions or help materials made available by Desart in connection with the Software.

**Extension** means the Shopify extension supplied by Desart.

**Laws** means all applicable laws, regulations, industry codes and binding regulatory requirements.

**Order** means any order, subscription selection, online checkout, written order, invoice or billing record (including through Desart's systems) by which the Customer purchases or renews a Plugin Subscription Term.

**Personal Information** has the meaning given in the *Privacy Act 1988* (Cth).

**Plugin** means the WordPress / WooCommerce plugin supplied by Desart.

**Plugin Subscription Term** means the period during which the Customer is entitled to use the Software, as specified in the applicable Order, commencing on the Commencement Date, unless terminated earlier in accordance with this Agreement.

**SAM Data** means data made available to the Software via the SAM Platform.

**SAM Environment** means the SAM Platform together with the Software.

**SAM EULA** means the SAM Platform End User Licence Agreement.

**SAM Platform** has the meaning given in the SAM EULA and does not include the Software.

**Software** means the Plugin or Extension (as applicable), including all updates, releases, fixes and Documentation.

**User** has the meaning given in clause 1.2 above.

## 2.2 Interpretation

In this Agreement, unless the context requires otherwise:

- (a) headings do not affect interpretation;
- (b) words in the singular include the plural and vice versa; and
- (c) references to persons include bodies corporate.

## 3 Access to the Plugin or Extension

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### 3.1 Grant of Licence

From the Commencement Date, Desart grants the Customer a revocable, non-exclusive, non-transferable and non-sublicensable licence to install and use the Software during the Plugin Subscription Term, solely for the Customer's internal business purposes.

### 3.2 Dependency on SAM

- (a) Use of the Software is conditional on the Customer maintaining a current subscription to the SAM Platform and authorised access to SAM Data.
- (b) The Plugin Subscription Term may not extend beyond the Customer's SAM Platform subscription. If the SAM Platform subscription ends, this Agreement automatically terminates.

### **3.3 One Platform Only**

Unless otherwise agreed in writing, the Customer may use either the Plugin or the Extension (but not both) per SAM subscription.

## **4 Installation and Administration**

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### **4.1 Standard Supply**

The Software is supplied on a standard, off-the-shelf basis and may include limited configuration options as described in the Documentation, but does not include bespoke development or customer-specific customisation.

### **4.2 Customer Responsibility**

The Customer is solely responsible for installation, configuration, hosting environment, third-party compatibility and legal compliance of any online store operated using the Software.

### **4.3 No Services**

This Agreement does not include development, design, customisation, integration or implementation services.

## **5 Fees and Billing**

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### **5.1 Fees**

The Customer must pay the Fees specified in the applicable Order.

### **5.2 Payment**

Fees are payable in accordance with the payment terms specified in the applicable Order or invoice.

## **6 Rules of Use**

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### **6.1 Permitted Use**

The Software may be used solely to display and transact using SAM Data in connection with the Customer's business.

### **6.2 Restrictions**

The Customer must not misuse the Software, interfere with the SAM Environment, or use the Software in breach of Laws or third-party rights.

## **7 Intellectual Property Rights**

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All Intellectual Property Rights in the Software remain the exclusive property of Desart and its licensors.

## **8 Updates and Availability**

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### **8.1 Updates**

Desart may deploy updates, patches, bug fixes or new releases to the Software at its discretion, including via automatic updates.

### **8.2 No Uptime Warranty**

No uptime or availability warranties apply to the Software.

## **9 Support**

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Support is limited to updates and fixes for reproducible defects in the Software. It excludes third-party systems, hosting, configuration and customisation.

## **10 Customer Data and Privacy**

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### **10.1 Data Use**

The Software may access Customer Data and SAM Data solely to provide its functionality.

### **10.2 Privacy**

Desart will handle any Personal Information in accordance with the SAM Privacy Policy and applicable Privacy Laws.

## **11 Warranties and Disclaimers**

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### **11.1 Authority**

Each party warrants that it has the legal power and authority to enter into this Agreement.

### **11.2 Desart Warranties**

Desart will use commercially reasonable efforts to:

- (a) ensure that the Software functions materially in accordance with the Documentation; and
- (b) prevent the introduction of viruses or other malicious code into the Software,

provided that Desart will not be liable for malicious code introduced via third-party systems, themes, plugins, hosting environments or services.

### **11.3 Warranty Claims**

Clause 11.2 will not apply to any failure of the Software arising from:

- (a) misuse, unauthorised modification or configuration of the Software;
- (b) third-party software, platforms, services or hosting environments (including WooCommerce or Shopify); or
- (c) use of the Software other than in accordance with this Agreement.

### **11.4 Australian Consumer Law**

- (a) Nothing in this Agreement is intended to exclude, restrict or modify any right or remedy the Customer may have under the Australian Consumer Law that cannot lawfully be excluded.
- (b) To the extent permitted by section 64A of the Australian Consumer Law, Desart's liability for breach of any consumer guarantee in relation to the Software is limited, at Desart's option, to:
  - (i) resupplying the Software; or
  - (ii) payment of the cost of having the Software resupplied.

### **11.5 Disclaimers**

Except as expressly set out in this clause 11:

- (a) the Software is provided "as is";

- (b) Desart does not warrant that:
  - (i) use of the Software will be uninterrupted or error-free;
  - (ii) the Software will be compatible with all themes, plugins, extensions, payment gateways or hosting environments; or
  - (iii) use of the Software will result in any particular level of sales, revenue or commercial outcome; and
- (c) Desart is not responsible for compliance of any online store operated using the Software with privacy, consumer protection, e-commerce, taxation or payment Laws.

## **12 Limitation of Liability**

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### **12.1 Consequential Loss**

To the maximum extent permitted by Law, Desart will not be liable for any indirect, incidental, special, consequential or economic loss, including loss of profits, loss of revenue, loss of business opportunity, loss of data, or business interruption, arising out of or in connection with this Agreement or use of the Software, even if Desart has been advised of the possibility of such loss.

### **12.2 Liability Cap**

Subject to clause 11.4, Desart's aggregate liability to the Customer arising out of or in connection with this Agreement or the Software (whether in contract, tort, negligence, statute or otherwise) is limited to the total Fees actually paid by the Customer for the Software during the Plugin Subscription Term in which the claim arises.

## **13 Termination and Suspension**

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### **13.1 Suspension**

Without limiting any other right, Desart may suspend the Customer's or any User's access to the Software immediately if:

- (a) any Fees remain unpaid after becoming due;
- (b) the Customer or a User breaches this Agreement;
- (c) Desart reasonably considers that use of the Software poses a security, legal or operational risk; or
- (d) the Customer's subscription to the SAM Platform is suspended or terminated.

### **13.2 No Liability for Suspension**

Desart will not be liable for any loss arising from a suspension under clause 13.1.

### **13.3 Termination for Cause**

Either party may terminate this Agreement immediately by written notice if the other party:

- (a) commits a material breach of this Agreement and fails to remedy that breach within ten (10) Business Days of receiving notice requiring it to do so;
- (b) ceases business or becomes insolvent; or

- (c) is subject to an insolvency, administration or analogous proceeding that is not dismissed within sixty (60) days.

#### **13.4 Automatic Termination**

This Agreement will automatically terminate if the Customer's subscription to the SAM Platform expires or is terminated for any reason.

#### **13.5 Termination for Convenience**

- (a) Desart may terminate this Agreement for convenience by giving the Customer not less than twenty (20) Business Days' written notice.
- (b) The Customer may terminate this Agreement for convenience at any time by ceasing use of the Software, but no refunds will be payable except as required by Law.

### **14 Effect of Termination**

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- (a) Upon termination or expiry of this Agreement for any reason:
  - (i) the Customer must immediately cease use of, and uninstall, the Software;
  - (ii) all licences granted under this Agreement immediately terminate;
  - (iii) any accrued rights or obligations survive termination; and
  - (iv) termination does not relieve the Customer of its obligation to pay any Fees accrued up to the date of termination.
- (b) Clauses which by their nature are intended to survive termination (including clauses 7, 10, 11, 12 and this clause 14) will survive.

### **15 Changes to this Agreement**

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#### **15.1 Changes**

Desart may modify this Agreement from time to time. Any amended version of this Agreement will apply from the earlier of:

- (a) the next time the Customer or any User clicks "I Agree" in relation to the Software; or
- (b) continued use of the Software after Desart has given notice of the change.

#### **15.2 Right to Terminate**

If the Customer does not agree to a material change to this Agreement, the Customer may terminate this Agreement by ceasing use of the Software before the amended terms take effect.

### **16 Dispute Resolution**

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If a dispute arises out of or in connection with this Agreement, a party may not commence court proceedings (except for urgent interlocutory relief) unless it has first complied with the dispute resolution procedure set out in clause 21 of the SAM EULA, which applies to this Agreement as if set out in full.

## **17 General**

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### **17.1 Governing Law and Jurisdiction**

This Agreement is governed by the laws of Northern Territory, Australia. Each party submits to the non-exclusive jurisdiction of the courts of the Northern Territory and any courts of appeal from them.

### **17.2 Taxes**

Clause 22 of the SAM EULA applies to this Agreement as if set out in full, to the extent it is capable of applying to the Software.

### **17.3 Notices, Force Majeure, Assignment, Waiver, Severance and No Merger**

Clauses 24.1, 24.3, 24.4, 24.6, 24.7 and 24.8 of the SAM EULA apply to this Agreement as if set out in full.