

## Loan Agreement

**This Loan Agreement complies with national and international standards of ethics including the ICOM Code of Ethics and the UNESCO Convention on the Means of Prohibiting and Preventing Illicit Import, Export und Transfer of Cultural Property.**

It is made and entered into on the attached **Loan Conditions** by

**Lender's name:** \_\_\_\_\_

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

\_\_\_\_\_

\_\_\_\_\_

and

**Borrower's name:** \_\_\_\_\_

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

\_\_\_\_\_

\_\_\_\_\_

### **a) Exhibition**

Title: \_\_\_\_\_

Dates: \_\_\_\_\_

Tour venues:  
(with dates) \_\_\_\_\_

### **b) Duration of Loan(s)**

Dates: \_\_\_\_\_



**g) Pick up and return address**

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**h) Contact person(s):**

Name: 

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Telephone: 

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Fax: 

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Email: 

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Lending institution:  

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Borrowing institution:  

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Date:  

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Date:  

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Lender's signature:  

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Borrower's signature:  

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## Loan Conditions

### General conditions

#### Version A

The Lender lends the work(s) listed on the loan agreement (or the attachment to the loan agreement). The loans may be used for the purpose and duration mentioned in this loan agreement only. They are to be returned to the Lender at the end of the exhibition without delay and special request.

The Loan Conditions also apply for the duration of the whole exhibition tour.

(or)

The Loan Conditions apply for the \_\_\_\_\_ (*insert name of city/town*) venue of the exhibition tour only.

The Borrower has to bear all costs of this (these) loan(s). He is not entitled to lend the work(s) to third parties.

#### Version B

The Lender lends the work(s) listed on the loan agreement (the attachment to the loan agreement). The loans may be used for the purpose and the duration mentioned in the loan agreement only. The loans are to be returned to the Lender at the end of the exhibition without delay and special request. If the Borrower is in breach of any of the terms of the agreement the Lender may annul the contract at once without formality, send for the objects at the expense of the Borrower and, if necessary, claim compensation.

The Loan Conditions also apply for the duration of a possible exhibition tour.

or

The Loan Conditions apply for the \_\_\_\_\_ (*insert name of city/town*) venue of the exhibition tour only.

The Borrower must bear all costs of this (these) loan(s). He is not entitled to lend the work(s) to third parties. He may neither alter nor photograph, copy or restore the objects unless given permission by the Lender in writing. He undertakes to exhibit or store the objects with due care according to the conditions of the Lender. Special conditions of care are agreed upon separately if required.

The Lender and Borrower undertake to treat with confidentiality any contracts made with each other or with any Third Party relating to the Loan Agreement.

## **Costs**

Costs in connection with the loan(s) as agreed between Lender and Borrower shall be borne by the Borrower, as for example:

- handling/ loan fee
- restoration costs
- glazing, framing, preparation etc.
- photography
- insurance
- packing
- transports
- other costs: \_\_\_\_\_

All costs related to the loan(s) shall be confirmed in advance. Neither party to this agreement has the right to make any financial or other commitments on behalf of the other party without previous agreement.

## **Liability**

### Version A (Borrower's indemnity)

Valuation of the loan(s) is made by the Lender and agreed by the Borrower.

The loan(s) shall be covered by the Borrower's State/Government Indemnity on a nail to nail basis against all risks, including transit, with the usual standard exclusions such as wear and tear, inherent vice, damage through cleaning and restoration work, war-like action and atomic energy. The Certificate of Indemnity (and the insurance certificate if applicable) naming the Lender as the beneficiary, shall be presented to the Lender by the Borrower in advance of initiation of transport procedures. Should the indemnity documents not conform to the required risk cover the Lender has the right to withhold transferring the loan(s) until they are rectified accordingly by the Borrower. In the case of loss or damage the Lender must be informed immediately.

Should the indemnity not cover the complete agreed value the Borrower agrees to insure the remaining amount under a commercial insurance policy.

### Version B (Borrower's indemnity)

Valuation of the loan(s) is made by the Lender and agreed by the Borrower.

The loan(s) shall be covered by the Borrower's State/Government Indemnity on a nail to nail basis against all risks, including transit, with the usual standard exclusions such as wear and tear, inherent vice, damage through cleaning and restoration work, war-like action and atomic energy. The Certificate of Indemnity (and the insurance certificate if applicable) naming the Lender as the beneficiary, shall be presented to the Lender by the Borrower in advance to initiation of transport procedures. Should the indemnity documents not conform to the required risk cover the Lender has the right to withhold transferring the loan(s) until they are rectified accordingly by the Borrower.

The indemnity must include coverage against all risk of physical loss or damage from any cause, whilst in transit and on location in the gallery, with the value stated in Euros and the standard exclusions only. Valuation of the loan(s) is made by the Lender and agreed by the Borrower. This is an Agreed Value and cannot be disputed in the case of damages.

Should the indemnity not cover the complete agreed value the Borrower agrees to insure the remaining amount under a commercial insurance policy.

In the case of loss or damage the Lender must be notified immediately. The damage must be recorded in a condition report accompanied by photographs and sent to the Lender within 3 days. The Borrower will cover the necessary cost of inspection by the Lender's staff.

In the case of total loss the Agreed Value (as listed on the Loan Agreement) has to be paid. In the case of damages the restoration cost as well as the depreciation will be assessed by experts named by the Lender and approved by the Borrower.

#### Version C (Borrower insures)

The loan(s) shall be insured by the Borrower on a nail to nail basis against all risks, including transit with the usual standard exclusions, such as wear and tear, inherent vice, damage through cleaning and restoration work, war and war-like action and atomic energy. The insurance certificate or a signed copy shall be presented to the Lender by the Borrower in advance of initiation of transport procedures. Should the insurance documents not conform to the required risk cover the Lender has the right to withhold transferring the loan(s) until insurance documents are rectified accordingly by the Borrower. In the case of loss or damage the Lender must be notified immediately.

#### Version D (Borrower insures)

Valuation of the loan(s) is made by the Lender and agreed by the Borrower. The loan(s) shall be insured by the Borrower on a nail to nail basis against all risks, including transit with the usual standard exclusions, such as wear and tear, inherent vice, damage through cleaning and restoration work, war-like action and atomic energy. The insurance certificate or a signed copy, naming the Lender as the beneficiary, shall be presented to the Lender by the Borrower in advance of initiation of transport procedures. Should the insurance documents not conform to the required risk cover the Lender has the right to withhold transferring the loan(s) until insurance documents are rectified accordingly by the Borrower.

The all-risks insurance policy shall include coverage against all risk of physical loss or damage from any cause, whilst in transit and on location in the gallery, with the value stated in Euros. Valuation of the loan(s) is made by the Lender and approved by the Borrower. This is an Agreed Value and cannot be disputed in the case of damages. It is listed on the Loan Agreement.

In the case of loss or damage the Lender must be notified immediately. The damage must be recorded in a condition report accompanied by photographs.

In the case of total loss the Agreed Value has to be paid. In the case of damages the restoration cost as well as the depreciation will be assessed by experts named by the Lender and approved by the Borrower.

Should there be a considerable fluctuation of values in the (art) market the Lender may set a new insurance value for long-term loans. He must inform the Borrower in writing and be able to justify the new value. This value becomes effective 14 days later.

#### Version E (Lender insures)

Valuation of the loan(s) is made by the Lender and agreed by the Borrower.

The loan(s) shall be insured by the Lender on a nail to nail basis against all risks, including transit with the usual standard exclusions, such as wear and tear, inherent vice, damage through cleaning and restoration work, war-like action and atomic energy. The insurance certificate or a signed copy shall be presented to the Borrower in advance of initiation of transport procedures. Should the premium not be paid by the time the loan(s) are due to leave the Lender's premises, the Lender has the right to withhold transferring the loan(s) until payment has been received. In the case of loss or damage the Lender must be notified immediately.

#### Version F (Lender insures)

Valuation of the loan(s) is made by the Lender and agreed by the Borrower.

The loan(s) shall be insured by the Lender on a nail to nail basis against all risks, including transit with the usual standard exclusions, such as wear and tear, inherent vice, damage through cleaning and restoration work, war-like action and atomic energy. The insurance certificate or a signed copy shall be presented to the Borrower in advance of initiation of transport procedures. Should the premium not be paid by the time the loan(s) are due to leave the Lender's premises the Lender has the right to withhold transferring the loan(s) until payment has been received.

In the case of loss or damage the Lender must be notified immediately. The damage must be recorded in a condition report accompanied by photographs.

In the case of total loss the Agreed Value listed on the Loan Agreement has to be paid. In the case of damages the restoration cost as well as depreciation will be assessed by experts named by the Lender and approved by the Borrower.

Should there be a considerable fluctuation of values in the (art) market the Lender may set a new insurance value. He must inform the Borrower in writing and be able to justify the new value. This value becomes effective 14 days later.

Version G (Non-insurance by the Borrower)

Valuation of the loan(s) is made by the Lender and agreed by the Borrower. The loan(s) shall be insured by the Lender on a nail to nail basis against all risks during transit with the usual standard exclusions, such as wear and tear, inherent vice, damage through cleaning and restoration work, war-like action and atomic energy. No insurance is provided for the loan(s) during their stay at the Lender's premises.

The insurance certificate or a signed copy shall be presented to the Borrower in advance of initiation of transport procedures. Should the premium not be paid by the time the loan(s) are due to leave the Lender's premises the Lender has the right to withhold transferring the loan(s) until payment has been received.

In the event of damage to an object the Borrower is responsible for the cost of repair, conservation and other expenses relating directly to the damage in question. He is responsible for a possible reduction in value if the damage is caused wilfully by the Borrower or if it is due to the Borrower's negligence and/or disregard to the loan agreement.

In the case of loss or damage the Lender must be notified immediately. The damage must be recorded in a condition report accompanied by photographs.

**Packing and transportation**

Version A

The transport of the loan(s) to and from the final destination is to proceed at the cost and liability of the Borrower. The choice of transport agent must be agreed between the Lender and the Borrower. The works must be packed with appropriate materials designed to give maximum protection to the object(s) and repacked in the same or similar materials as received unless otherwise authorized by the Lender.

Version B

The transport of the loan(s) to and from the final destination is to proceed at the cost and liability of the Borrower. The choice of transport agent must be agreed between the Lender and the Borrower. Any transport company used must have experience in the transportation of delicate and valuable objects with employees trained in the handling of such material. The works must be packed with appropriate materials designed to give maximum protection to the object(s) and repacked in the same way.

The removal, packing, unpacking and transports must be supervised by qualified art handlers in cooperation with members of the Lender's and/or Borrower's staff. Vehicles should provide appropriate protection against vibration and shock and extremes in relative humidity and temperature conditions, double drivers and suitable protection from theft. At no time must the truck be left unattended. For the return transport the works must be

repacked in the same or similar materials as received unless otherwise authorized by the Lender.

### **Couriers**

The loan(s) must be couriered to and from \_\_\_\_\_ (insert Lender's and Borrower's residence) by a member of the Lender's staff.

The Borrower is responsible for all expenses derived from the courier's travel, including per diems and hotel accommodation in a good middle-class hotel.

Special agreements: \_\_\_\_\_

### **Care of objects and installation**

#### Version A

Installation must be handled by qualified professional art handlers supervised by the Borrower's staff and trained for action in emergencies. The Borrower shall secure constant and adequate protection of the loan(s). The objects should be maintained in the condition in which they were received and the Borrower is to take the best possible care of the objects.

The Borrower may not make any changes to the condition of the property on loan without written consent from the Lender.

The works must not be moved or re-hung without permission from the Lender except in an emergency. The Lender shall prepare a condition report which is to accompany the object and which upon arrival of the object(s) must be completed by the Borrower. Should the Lender not be able to provide a condition report the Borrower will prepare such a report when unpacking the loan(s) on his premises. If any changes in the condition of the loan(s) be noted the Lender must be contacted without delay.

#### Version B

Installation must be handled by qualified professional art handlers supervised by the Lender's staff and trained for action in emergencies. The Borrower shall secure constant and adequate protection of the loan(s). The objects should be maintained in the condition in which they were received and the Borrower is to take the best possible care of the objects.

Works packed in climate-controlled crates must be stored for acclimatisation for at least 24 hours. Empty crates shall be stored in a secure climate and temperature controlled indoor storage area, protected from moisture, pollution, fungus and vermin. For acclimatization they should be delivered to the galleries 24 hours before re-packing begins.

The Borrower may not make any changes to the condition of the property.

The works must not be moved or re-hung or re-installed without permission from the Lender except in an emergency. Framed objects may not be unframed, removed from mounts or protective devices, cleaned or altered in any way without prior written consent by the Lender.

The property on loan may not be placed in the direct vicinity of heating and humidifying or dehumidifying units or equipment and protected at all times against direct sunlight, strong artificial light, heated and cold air sources.

The Lender shall prepare a condition report which is to accompany the object and must be completed by the Borrower upon arrival of the object(s). Should the Lender not be able to provide a condition report the Borrower will prepare such a report when unpacking the loan(s) on his premises. If any changes in the condition of the loan(s) be noted the Lender must be contacted without delay.

### **Environment**

In the exhibition galleries a stable climate with the following conditions has to be maintained:

Temperature: \_\_\_\_\_

Relative humidity: \_\_\_\_\_

Light intensity:     paintings     \_\_\_\_\_

                                  drawings     \_\_\_\_\_

                                  others         \_\_\_\_\_

Additional conditions: \_\_\_\_\_

### **Security and Safety**

Version A

The Borrower agrees to safeguard the loan(s) under generally accepted conditions of control and security during the entire time they are on his premises.

Smoking, eating and drinking shall be prohibited in the exhibition areas.

The Lender reserves the right to inspect the loan(s) whilst they are on exhibition.

Upon request the Borrower provides the Lender with a Facility Report prior to the signing of the Loan Agreement.

Version B

The Borrower agrees to safeguard the loan(s) under generally accepted conditions of control and security during the entire time they are on his premises.

The Borrower will provide security by means of guards, barriers, plinths, showcases, electronic devices etc. in order to keep the loan(s) secure whilst on his premises and to ensure that the public does not touch or otherwise damage the work(s). The Borrower must ensure that the exhibition venue complies with fire safety regulations and that museum guards are fully prepared for action in the event of danger.

Smoking, eating and drinking shall be prohibited in the exhibition areas.

The Lender reserves the right to inspect the loan(s) whilst they are on exhibition.

Upon request the Borrower provides the Lender with a Facility Report prior to the signing of the Loan Agreement so as to enable the Lender to assess the environment, security and logistical implications of lending to this venue.

**Reproductions and publicity**

Version A

Loaned objects must not be photographed, filmed, videoed, televised or copied in any way without prior written agreement by the Lender.

The press and museum staff may photograph the loan(s) as part of the exhibition, for advertising or to document a general view. Works may be filmed for exhibition publicity. Filming must be supervised at all times.

Photographic material can be obtained from \_\_\_\_\_

The Borrower must provide the Lender with \_\_\_\_\_ (*insert number*) copies of the exhibition catalogue.

Version B

Loaned objects must not be photographed, filmed, videoed, televised or copied in any way without prior written agreement by the Lender. Reproductions supplied by the Lender – photographs, transparencies or digital images – may be published in the exhibition catalogues or exhibition promotion material only unless otherwise agreed with the Lender. Published reproductions must credit the title, artist and owner of the work as well as the photographer. The Borrower undertakes to obtain the respective copyrights. The Borrower may not transfer any publishing rights to third parties without permission from the Lender.

Photographic material can be obtained from \_\_\_\_\_

The press and museum may photograph the loan(s) as part of the exhibition, for advertising purposes or to document a general view. Works may be filmed for exhibition publicity. Filming must be supervised at all times.

The Borrower must provide the Lender with copies of any publication, brochure or publicity material. \_\_\_\_\_ (*insert number*) of copies of the catalogue must be sent to the Lender.

### **Acknowledgements**

Version A

The credit line should read:

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Version B

The Lender must be acknowledged in displays, exhibition labels, notices, literature, publicity material and catalogues as follows:

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### **Sponsors**

The Borrower observes the ethical norms accepted in international museum practice related to the sponsorship policy. The Lender reserves the right to approve or refuse sponsors for exhibitions consisting of his property only.

### **Withdrawal, termination**

Version A

The Lender may terminate the Loan Agreement, or terminate the provisions of any part of the Loan Agreement, by written notice to the Borrower with immediate effect, if the Borrower is in default of any obligation under the Loan Agreement.

Version B

The Lender may terminate the Loan Agreement, or terminate the provisions of any part of the Loan Agreement, by written notice to the Borrower, with immediate effect if the Borrower is in default of any obligation under the Loan Agreement.

Upon the occurrence of an event of default, all rights of the Borrower under this agreement will immediately cease and terminate. The Borrower shall immediately move the loan(s) to a location specified by the Lender. The Lender may recover from the Borrower all reasonable costs, including legal fees and expenses.

The Borrower as well as the Lender may cancel an exhibition or part thereof or terminate the agreement with 28 days notice. The Lender must bear all costs related to this termination.

### **Immunity from Seizure**

#### Version A

Upon request by the Lender the Borrower must obtain immunity from seizure for the loan(s) whenever the laws of the exhibition venue(s) country provide for such protection.

The Lender confirms that he is the legal owner of the loaned object(s).

#### Version B

Upon request by the Lender the Borrower must obtain immunity from seizure for the loan(s) whenever the laws of the exhibition venue(s) country provide for such protection.

The Lender confirms that he is the legal owner of the object(s) and knows of no third party claim to the object(s). The owner can provide full provenance history of the object(s). If not, please give details if provenance history is incomplete.

A document containing a legally binding promise of immunity protection issued by the competent authority must be sent to the Lender before authorization to begin packing and shipping arrangements can be given.

### **Governing law and jurisdiction**

This agreement shall be governed by the law of \_\_\_\_\_ (*insert name of state/country*). Any disputes or differences between the Lender and the Borrower arising out of this agreement shall be settled by means of negotiation and arbitration. Should this fail they are to be decided by the rule of the Arbitration Institute of \_\_\_\_\_ (*insert name of state/country*) Chamber of Commerce.

Should individual terms of this contract become invalid or inapplicable after its signature the remainder of this contract remains untouched.

Lending institution:

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Date:

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Lender's signature:

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Borrowing institution:

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Date:

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Borrower's signature:

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