

VMS  
AMS

Verband der Museen der Schweiz  
Association des musées suisses  
Associazione dei musei svizzeri  
Swiss Museums Association

# **Framework Agreement**

for the Temporary Loan of Collection Pieces

# Framework Agreement

for the Temporary Loan of Collection Pieces

dated

.....  
Date

between

.....  
Identity (Company name of Party A or Name and first name of Party A)

.....  
Street and Number of the registered office or of the domicile

.....  
Postcode, place of the registered office or of the domicile

.....  
Country

(hereafter: "Party A")

and

.....  
Identity (Company name of Party B or Name and first name of Party B)

.....  
Street and Number of the registered office or of the domicile

.....  
Postcode, place of the registered office or of the domicile

.....  
Country

(hereafter: "Party B")

## **1. GENERAL PROVISIONS**

### **1.1 Purpose and scope of application**

1.1.1 This Framework Agreement is applicable to all Loans concluded between the Parties whether or not they specifically refer to this Framework Agreement.

1.1.2 If the Parties have previously concluded loan agreements or already have loans which have not yet been returned to the Lender on the date of this Framework Agreement, these loans shall be governed by the terms set out in this Framework Agreement, with the exception of the Loans listed in the Appendix.

1.1.3 In the event of any inconsistency between this document, its Appendix or the Loan Sheet, the Loan Sheet shall prevail over all the documents and the Appendix shall prevail over this document. The references made to clauses of the Framework Agreement must be understood as references to such clauses as amended by any provisions of its Appendix or of the Loan Sheet.

1.1.4 Except in the case of emergency measures or the written agreement of the Lender, the conclusion of this Framework Agreement or of a Loan Agreement does not allow the Borrower to clean, restore, modify, disassemble, remove from their frame or remove from their support, or copy the Collection Pieces, to move them to a location different from the location of their planned use, to have the Collection Pieces take a different route from the one specified, to lend them to a third party or to dispose of them in any manner whatsoever.

### **1.2 Conclusion of the Loans**

1.2.1 The signing of this Framework Agreement does not impose an obligation on the Parties to conclude Loans.

1.2.2 The Loans are concluded upon the condition that this Framework Agreement with the Loan Sheets constitutes this Agreement, whether or not the Loan Sheets refer to the Framework Agreement.

1.2.3 The conclusion of a Loan is not subject to any form requirement.

1.2.4 After the conclusion of a Loan, the Lender establishes and transfers to the Borrower a Loan Sheet within fifteen working days but in any event prior to the dispatch of the of the Collection Pieces concerned, taking into account a reasonable time limit for verification thereof. If the Borrower notes inconsistencies between its own documents and the Loan Sheet received, it shall notify the Lender in writing stating precisely what the inconsistencies are within fifteen working days from receipt of the Loan Sheet but no later than the handing over of the Collection Pieces.

1.2.5 If the Parties do not receive any notice or objection within the time limits set out in clause 1.2.4 above, the Loan shall be deemed to have been accepted on the terms of the Agreement, the loan sheet of which shall be amended to include the reported inconsistencies for which no objection is raised pursuant to clause 1.2.4. If the Parties are unable to agree on the inconsistencies reported pursuant to clause 1.2.4., either Party may effect early termination of the Loan prior to the dispatch of the Collection Pieces concerned.

1.2.6 In the event of an inconsistency in the Agreement or the Framework Agreement, the Parties are bound by a Code of Ethics, the directives of the ICOM and, if not covered there, by the standard practice to which they have agreed and the practices that have been established between them in compliance with the principle of good faith. Unless otherwise agreed, the Parties are deemed to have referred tacitly in the Agreement and for its formation to the Code of Ethics, to the Directives of the ICOM and, in the absence thereof, to any standard practice that they had knowledge of or should have knowledge and which is widely known in the context of loaning collection pieces and regularly observed by parties to agreements of the same type in the area concerned.

### **1.3 Capacity and representation**

1.3.1 The Parties and the signatories confirm that to their knowledge and after having conducted the necessary research in this respect required by the Code of Ethics:

- a They have full legal capacity to conclude the Loans and in particular that any legal or contractual requirements or requirements under the by-laws applicable to them shall be met;
- b the conclusion and the execution of this Framework Agreement and of each of the Loans have been approved to the extent necessary by the authorities, representative bodies, accredited persons or right-holders;
- c the Collection Pieces were acquired and will be handled by the Parties within the framework of the Loan and of the intended use as set out in compliance with the Code of Ethics and the applicable Directives of the ICOM;
- d the public law provisions applicable locally to either Party and which result in a deviation from the provisions of this Agreement or which make the Loan more expensive shall be indicated and described, indicating the consequences, to the other Party in the Appendix or in the Loan Sheet.

### **1.4 Definitions**

In this Agreement and subject to any provision to the contrary, the terms hereinafter shall have the following meanings:

#### **Agreement**

The single agreement constituted by the Framework Agreement and the Loan Sheets.

#### **Borrower**

The Party (or its representatives) who borrows gratuitously from the other Party one or more Collection Pieces for the intended use and who undertakes to return them by the agreed date.

#### **Code of Ethics**

The Code of Ethics of the ICOM adopted by the 15th General Meeting of the ICOM, held in Buenos-Aires (Argentina) on 4 November 1986, amended by the 20th General Meeting in Barcelona (Spain) on 6 July 2001 under the heading Code of Ethics of ICOM for museums and revised by the 21th General Meeting in Seoul (Republic of Korea) on 8 October 2004, and future amending, supplementing or replacement provisions.

**Collection Piece(s)**

The collection piece or pieces which are the subject-matter of a Loan, with the accessories (frame, support, glazing, display unit, label, etc.), support, glazing, display cabinet, labelling, etc.) normally attached to the main piece, as well as the accessories agreed between the Parties.

**Courier(s)**

The person or persons designated by the Lender to monitor and supervise the packing, unpacking, loading, unloading, transfers, environmental and security conditions at the storage premises and the conditions of the intended use of the Collection Pieces.

**Customs operations**

All the necessary operations for having the Collection Pieces cross the border of a country or a customs union, including the performance of formalities for the levying of public duties, duties relating to the export of cultural, sanitary, phytosanitary goods, and to the protection of species, etc.

**Directives of the ICOM**

The applicable Directives and norms of the ICOM for museums, particularly the directives of the ICOM relating to the drafting of loan agreements, documentation (CIDOC), musical instruments (CIMCIM), costumes, conservation (ICOM-CC), on historical residences-museums (DEMHIST), on staff training (ICTOP), on «Museum Security» (ICMS), and future amending, supplementing or replacement provisions.

**Emergency measures**

The immediate rescue measures which must be taken due to unexpected and unpredictable circumstances in principle within the framework of an emergency plan for the purpose of preserving the safety or integrity of the Collection Pieces.

**Experts**

The person appointed upon the recommendation of the Lender with the agreement of the Borrower to make a value estimate, and, in the absence of agreement, the panel of three persons, one appointed by the Lender, the other by the Borrower and the third by the persons thus designated.

**Framework Agreement**

This document and its Appendix, which forms an integral part thereof, as well as future amending, supplementing or replacement provisions.

**ICOM**

The International Council of Museums ICOM, and the international organisation of museums and museum professionals which may succeed ICOM as a non-governmental organisation maintaining formal relations with UNESCO.

**Intended use**

Use of the Collection Pieces agreed between the Parties (or in the absence of a specific agreement, the use deriving from their nature or purpose). Unless otherwise provided in the Agreement, the intended use is the public presentation of the Collection Pieces in the context of an exhibition.

**In Writing**

Written on paper and bearing the written signature of the Parties concerned as well as the communications sent and addressed by email, telecopy, telegram or telex from and to the addresses intended for notifications as set out in the Appendix.

**Lender**

The Party (or its representatives) gratuitously makes available one or more Collection Pieces to the other Party for the intended use up to the agreed date.

**Loan Sheet**

The written document, and the appended agreement mentioned therein, which set out the modalities of a Loan between the Parties. In the absence of such a written document, particularly if a loan is carried out and the Lender has not established a Loan Sheet or despite an unresolved difference concerning the contents of a Loan Sheet, the terms set out under clause 1.2.6 shall replace or supplement this written document concerning the elements which are not specifically approved on the terms set out above.

**Loan(s)**

Any transaction in which a Party gratuitously makes available one or more Collection Pieces on a temporary basis to another Party for the intended use, who accepts and undertakes to return them on the agreed date.

**Party/Parties**

In the singular, Party A or Party B and in the plural, Party A and Party B.

**Serious breach**

Any breach of the Agreement committed by either Party causing the other Party harm or placing the other Party at risk of being substantially deprived of what it was entitled to expect under the Agreement, particularly where such breach is liable immediately and effectively to endanger or has already immediately and effectively endangered the security of the Collection Pieces, unless the breaching party did not anticipate such a result and a reasonable person acting in the same capacity placed in the same situation would not have anticipated it either.

**Technician(s)**

The person or persons having the appropriate qualifications and professional experience and recognized by the ICOM within the definition of museum professions to handle the collection pieces and take emergency measures (particularly the curator in charge of a collection, and/or an exhibition, the person responsible for the inventory and documenting of the items, manager / artwork manager, curator, restorer, preparer, museum technician).

**Working day(s)**

The days which are not legal holidays or non-work days at the place where a given transaction is to be performed, whereby Saturdays and Sundays are always considered legal holidays and non-work days.

**2. IMPLEMENTATION OF THE LOAN AND OBLIGATIONS OF THE PARTIES****2.1 Duration**

2.1.1 The Loan is agreed on for a fixed time period agreed on by the Parties. The conclusion of a Loan does not oblige the Parties to accept an extension of its duration.

2.1.2 If the duration is not determined by the Parties with an indication of the end date, the Loan shall be agreed as being for the duration initially anticipated for the intended use with a usual and reasonable time period for packing and transport. If the duration indicated for the Loan corresponds to the duration initially anticipated for the intended use, it is assumed that a usual and reasonable time period for packing and transport is added thereto.

2.1.3 In all events, the Loan period shall expire in case of:

- a termination in accordance with clause 3.3 below;
- b early termination in accordance with clauses 1.2.5 hereinabove and 2.2.3 hereinafter.

## **2.2 Valuation**

2.2.1 The valuation of the Collection Pieces is made by the Lender before the Collection Pieces are dispatched and approved by the Borrower stating a value expressed in Swiss monetary units or in another freely convertible currency. Unless otherwise agreed, the value is indicated on the Loan Sheet and communicated at the same time.

2.2.2 Each Party may request in writing, accompanied by the necessary supporting documents, once per year and after an initial period of one year, an adjustment to that value if there has been in respect of a Loan of more than one year a fluctuation of over 20% between the last agreed estimated value and:

- a the values on the art market for the Collection Pieces concerned;
- b between the legal currencies of the countries of the parties and the currency of the estimate;
- c the addition of the two factors under a) and b) above.

2.2.3 If the Parties are unable to agree on the new value pursuant to clause 2.2.2 above, each Party may declare early termination of the Loan giving fifteen working days' notice.

## **2.3 Costs**

2.3.1 The entire costs arising out of the Loan shall be borne by the Borrower, i.e. in particular the costs of:

- a preparation
- b packing
- c handling
- d the forwarding agent and of transportation
- e the couriers
- f the customs operations
- g maintenance of environmental and security conditions
- h storage
- i assembly
- j insurance, etc.

2.3.2 The additional losses relating to premature termination due to value fluctuation on the art market or the currency market pursuant to clause 2.2.3 above shall be borne between the Parties by half.

2.3.3 If it is absolutely necessary for the Borrower, without it having committed a breach of the Agreement, to incur extraordinary expenses in the interest of the Lender, the Lender shall refund the Borrower.

2.3.4 If any costs incurred by either Party must be refunded by the other, such costs shall be estimated in advance by the Party incurring the costs for the other Party and agreed in advance.

## **2.4 Transfer of risk, loss or damage**

2.4.1 Where the Agreement involves the transportation of the Collection Pieces and the Lender is not obliged to hand them over at a specified location, the risk of loss, alteration and of damage shall be borne by the Borrower from the time of handing over the Collection Pieces to the first transporter for transfer to the Borrower pursuant to the Agreement and until restitution to the Lender. Where the Lender has an obligation to hand them over to a transporter at a specified location, the risks are transferred to the Borrower from the time the Collection Pieces are handed over to the transporter at such location and up until restitution at the agreed location.

2.4.2 In cases not covered by clause 2.4.1, the risks shall be transferred to either Party at the time it takes possession of the Collection Pieces or, if it does not do so in good time, from the time where the Collection Pieces are made available to the Party and such Party commits a breach of this Agreement by not accepting delivery.

2.4.3 As soon as the risks are transferred to the Borrower, the Borrower shall be responsible for any loss, alteration or damage to the Collection Pieces, unless it proves that this is due to no fault of its own. If the Borrower has used the Collection Pieces for any use other than the intended use or if it authorises a third party to use them, it shall also be liable for accidental loss or damage.

## **2.5 Insurance – Indemnity**

2.5.1 The Collection Pieces must be covered for the amount of the estimated value as determined pursuant to clause 2.2 above

- I either by the indemnity of authority of the Borrower
- II or by an insurer.

The indemnity or insurance must designate the Lender as the beneficiary and cover the Loan for the packing, unpacking, shipping and exhibit, against any risks regardless of the cause, including those relating to transit, transportation and storage. However, ordinary exclusions from insurance are allowed for damage caused:

- a by normal wear and tear or normal deterioration;
- b acts of war, internal unrest, strikes, terrorist acts;
- c directly or indirectly by nuclear or ionising radiation, a nuclear reaction or a radioactive contamination;
- d by earthquakes or volcanic eruptions;
- e by cleaning or restoration.

2.5.2 The certificate of the indemnity authority or the insurance certificate indicating the Lender as the beneficiary must be handed over to the Lender by the Borrower prior to the dispatch of the Collection Pieces concerned taking into account a reasonable time for examination.

## **2.6 Customs operations**

2.6.1 If the customs operations are carried out by a forwarding agent, the choice of forwarding agent shall be made by agreement between the Parties. The Lender may refuse a forwarding agent without stating the reasons.



- 2.6.2 If the Parties do not hire a forwarding agent,
- a the Lender shall be responsible at the Borrower's expense for the customs operations for crossing the border of its country or of the customs union to which it belongs;
  - b the Borrower shall be responsible at its expense for all the other customs operations. The Borrower shall pay any public duties levied within the context of the customs operations.

2.6.3 In any event, the forwarding agent or the Party responsible for the customs operations shall in particular ensure that any inspections carried out by the agents responsible for customs operations are as far as possible carried out only prior to the packing before dispatch and after the unpacking at the arrival at the final destination.

## **2.7 Packing**

2.7.1 The Collection Pieces must be packed using adequate materials so as to provide maximum protection.

2.7.2 The Lender shall prepare the dispatch of the Collection Pieces with packing meeting the conditions under clause 2.7.1 above, which it may have carried out by a technician designated by it, if deemed necessary. The Borrower may examine the packing prior to the dispatch of the Collection Pieces.

2.7.3 At their return, the Collection Pieces shall be packed by a technician under the supervision of the Borrower, in exactly the same manner as for the outgoing transportation, using insofar as possible the same container, packing, padding and other accessories, unless a change has been expressly authorised by the Lender or is necessary to meet the conditions under clause 2.7.1 above. The Lender may examine the packing prior to the dispatch of the Collection Pieces.

2.7.4 All the packing material shall be deposited for the duration of the Loan period in inside premises, in the appropriate environmental conditions which are monitored and made secure, free from dampness, emanations (including pollution), mould and vermin. The packing material must be moved prior to the start of repacking into the same environmental conditions as those of the place where the Collection Pieces are temporarily stored of the place of intended use.

2.7.5 Subject to clause 2.6.3 above, no Collection Piece may be unpacked for examination during its transportation, whether outgoing or incoming.

## **2.8 Transportation**

2.8.1 The Parties shall mutually agree on the measures to be taken for both outgoing and incoming transportation. The Lender may specify the transportation modalities and refuse a transporter without stating the reasons. Unless otherwise agreed, the Lender shall be responsible for making the Collection Pieces available to the transporter at its premises.

2.8.2 The vehicles and the means used for the transportation or handling of the Collection Pieces must be adapted to the necessary requirements and, in particular:

- a where necessary, be equipped with jack and safety apparatus;
- b provide adequate protection against vibrations and shocks, extreme temperatures and humidity;
- c have adequate protection against theft.

2.8.3 The transportation shall be supervised by the technicians, who shall in particular ensure that the transhipments at the entrance and exit doors are carried out swiftly and skilfully.

2.8.4 The Party sending the Collection Pieces shall prepare for the other Party a report as detailed as possible on the condition of the Collection Pieces. The report on the condition of the Collection Pieces shall include a minutely detailed description of the actual composition and of the condition of the Collection Pieces and if they are not specified in the Loan Sheet, of the environmental, packing and transportation conditions. The report shall be addressed in duplicate to the other Party, one prior to dispatch, taking into account a reasonable time for verification, and the other with the Collection Pieces.

2.8.5 The Party receiving the Collection Pieces must examine them or have them examined in the shortest possible time, as the circumstances permit. If the Agreement implies the transportation of the Collection Pieces, the examination will be deferred until their arrival at destination. The receiving Party shall return to the other Party within three working days following the date of unpacking a copy of the report on the condition of the Collection Pieces indicating in writing any change or inconsistency observed in the condition of the Collection Pieces, as well as in the environmental, packing and transportation conditions.

## **2.9 Care, environment and security**

2.9.1 The operations that are necessary for the intended use (particularly the handling, the installation and the storage of the Collection Pieces) shall be carried out by technicians. The Borrower shall exercise care and professionalism; he shall ensure adequate and constant protection of the Collection Pieces, which must be maintained in the condition in which they were handed over and/or as in the written description of the condition report. The Borrower must take the best possible care.

2.9.2 The Lender shall define the specific conditions relating to the environmental and security conditions (particularly the maintenance of such conditions within the limits set by the Lender). Upon the Lender's request, the Borrower must provide to the Lender a report on the condition of the premises in order to enable the Lender to assess the environmental, the security-related and the logistical implications of the Loan for such premises.

In such case, the Borrower shall be responsible for:

- a protecting the Collection Pieces at all times, particularly against fire or flood risks, the risk of excessive exposure to light or radiation, of temperature fluctuations or variations in the humidity rate, of attacks by insects or emanations (including pollution) or of degradation. The Borrower shall ensure that the premises where the intended use is to be made or storage is to be carried out conform to fire and flood protection rules and regulations and that the staff is perfectly prepared to carry out the emergency measures.
- b preserving the Collection Pieces by a generally accepted standard of control and security throughout the duration of the Loan. The Borrower must in particular ensure, using guards, barriers, plinths, display cabinets, electronic devices, etc., the security of the Collection Pieces and guarantee that the public or non-authorized third parties do not take possession of, touch, alter, damage the Collection Pieces. Smoking, eating and drinking must be prohibited in the areas of the intended use.

2.9.3 If during the Loan period emergency measures must be taken by either Party, the Party concerned shall immediately inform the other Party. If there is absolutely no possibility of consulting the other Party in advance and if the Lender cannot give timely instructions, the emergency measures must first target the immediate safety of the Collection Pieces and be documented. Unless there is no other way to attain the objective of immediate safety or unless the Lender gives its written approval, these measures must first refrain from affecting in the long term the appearance, nature or substance of the Collection Pieces. The measures must ensure that the other obligations undertaken within the scope of the Agreement are complied within an ordinary implementation process of the Loan.

2.9.4 Immediately from the time reasonably possible, the Borrower must inform the Lender of any case of loss of the Collection Pieces, of alteration or of damage, as well as of any exposure to an uncommon environment. These facts must be recorded in a condition report, accompanied by the details of the emergency measures taken or recommended and of photographs, which shall be sent to the Lender within two working days. In such case, the Borrower shall cover the necessary inspection costs incurred by the Lender.

## **2.10 Couriers and monitoring**

2.10.1 If the Lender specifies that the Collection Pieces must be accompanied by couriers, it reserves the right to designate them. The couriers must have access to all the places where the transactions under their monitoring and supervision are carried out.

2.10.2 The Borrower shall be liable for all the expenses relating to the courier's travel, including the 2<sup>nd</sup> class travel expenses, middle-class food and accommodation costs.

2.10.3 The Lender may at all times and without notice verify the precautions taken with respect to the implementation of the intended use, the environment and the security set-up for the duration of the Loan, whether during the transport phase, the storage phase or the intended use.

## **2.11 Guarantee of restitution**

2.11.1 Upon the Lender's request, the Borrower must obtain from the host country of the intended use an express guarantee of restitution of the Collection Pieces, even if the law of the country in question provides for such protection in general.

2.11.2 The guarantee must ensure on the territory subject to the jurisdiction of the host country of the intended use complete immunity against any third party claims and any judicial proceedings.

2.11.3 The guarantee of restitution must be provided to the Lender by the Borrower prior to the dispatch of the Collection Pieces concerned, taking into account a reasonable deadline for verification thereof.

## **2.12 Photography and reproduction**

2.12.1 The Collection Pieces may not be photographed, recorded, broadcasted or televised by any other means than the intended use, copied or reproduced in any manner, without the prior written agreement of the Lender.

2.12.2 If the intended use is an exhibition, only the reproductions provided by the Lender (particularly photographs, slides, transparencies or digital images) may, without consideration on the part of the Lender and unless otherwise specified, be published in the catalogue or the promotional material (including the posters and post-cards) of that exhibition; they must be returned to the Lender at the end of the Loan. The authorised reproductions must display in the manner indicated by the Lender in particular the artist name and the identity of the artists, the owner of the Collection Pieces, the Lender, and the photographer.

2.12.3 The Borrower is further responsible for investigating the need for obtaining prior authorisation from the holder of the intellectual property rights (particularly copyrights) for the reproduction of the Collection Pieces and, where this is the case, for taking the necessary action in agreement with the Lender.

2.12.4 The Borrower cannot transfer any intellectual property rights to third parties without the prior written authorisation of the Lender and the holder of such rights.

2.12.5 The Borrower may authorise the press to photograph or film the Collection Pieces for reports on the intended use. The filming must be supervised by the Borrower at all times so that it is carried out in accordance with the provisions in clause 2.9 above and this clause 2.12.

2.12.6 The Borrower must supply gratuitously to the Lender two copies of any exhibition catalogues, of any publication, of any brochure or any promotional material, as well as any other reproduction of the Collection Pieces.

### **3. RIGHT OF THE PARTIES IN CASE OF BREACH OF THE AGREEMENT**

#### **3.1 Principles**

3.1.1 If either of the Parties has not performed one of its obligations under this Agreement in full or in part or if the representations made by such Party under clause 1.3 above are incorrect, incomplete or liable to mislead, such Party shall be in breach of the Agreement and in default. In case of default, the other Party shall be entitled to:

- a exercise the rights set out under clauses 3.2 and 3.3;
- b claim the damage compensation set out under clause 3.4.

3.1.2 The Parties shall not lose their right to a damage compensation claim if they exercise their right to another means of recourse.

3.1.3 The Party invoking a breach of the Agreement must take the reasonable measures in regard to the circumstances to limit the losses, including loss of earnings, resulting from the breach. If it neglects to do so, the Party in breach may request a reduction in the damage compensation claim equal to the amount of the loss which should have been avoided.

#### **3.2 Suspension of the transfer**

3.2.1 If the Borrower is in default, the Lender who has not yet handed over the Collection Pieces to the Borrower may suspend the transfer of the Collection Pieces until the obligations are fulfilled.

3.2.2 The Lender shall notify the Borrower thereof in writing.

### 3.3 Termination

3.3.1 The Party who is not in default may declare termination of the Agreement with immediate effect upon giving written notice to the other Party:

- a If the non-compliance by the other Party of one of its obligations under the Agreement or the incorrect, incomplete or misleading nature of the representations made by the Party under clause 1.3 above constitute a serious breach; or
- b In all other cases, with effect at the end of fifteen working days from the sending of the written notice or if the other Party declares that it will not fulfil its obligation within the given deadline,
  - I if the other Party does not fulfil its obligations or
  - II if it does not set up at its own expense adequate measures so that the Loan may be carried out in conditions and at a cost for the other Party which are mainly equivalent to the ones which would have prevailed, if the representations made by the Party in breach under clause 1.3 above had been correct, complete and not of a misleading nature.

3.3.2 The non-breaching Party shall thus return or recover the Collection Pieces with immediate effect. The Collection Pieces concerned must be handed over by the Borrower to the place indicated by the Lender.

3.3.3 If the non-compliance by either Party of an obligation relating to a Loan should constitute a serious breach of the Agreement in respect solely of certain Collection Pieces, the other Party may declare termination of the Agreement:

- a in respect of the Collection Pieces concerned by the non-compliance;
- b in respect of the entire Loan, providing termination is effected with a reasonable notice period and if the non-compliance in question gives the other Party serious reason to believe there will be serious breach of current and future obligations;
- c in respect of all or part of the Loans, if their content is so closely connected to the Loans, which have been terminated, that the purpose intended can no longer be met.

### 3.4 Damage compensation

3.4.1 Damage compensation for a breach of the agreement committed by a Party shall be equal to the loss of earnings of the other Party as a result of the breach and the loss suffered, which shall comprise in particular the following:

- a in case of total loss of the Collection Pieces for which the Borrower is liable, the Borrower must pay to the Lender their estimated value as established pursuant to clause 2.2 above. Where the estimated value has not been established pursuant to clause 2.2 above, it shall be determined by Experts at the Parties' expense of both Parties.
- b in case of partial damage to the Collection Pieces for which the Borrower is liable, the Borrower must pay to the Lender the restoration costs and the depreciation of the Collection Pieces as estimated by Experts at the Borrower's expense.
- c a reasonable indemnity for its legal costs and expenses.

3.4.2 Such damage compensation may not exceed the loss of earnings and other losses incurred which the Party in breach foresaw or should have foreseen at the time of concluding the Agreement to be possible consequences of breach of the Agreement, having regard to the facts which it knew or should have known.

### **3.5 Right of retention and similar rights**

3.5.1 Notwithstanding the rights conferred on the Lender under clause 3.2, the Parties shall not hold, or shall renounce and have their representatives and auxiliaries renounce, as the case may be, any rights, whether contractual or legal, of retention, of pledge or any other priority rights over the Collection Pieces in guarantee of the payment or the execution of the rights under this Agreement.

## **4. FINAL PROVISIONS**

### **4.1 Notices**

4.1.1 The notices or notifications between the Parties shall be addressed using the means of communication and the addresses listed in the Appendix. Where they are not set out in the Appendix, those shown in the heading of this document shall apply.

### **4.2 Immunity**

4.2.1 Notwithstanding the effects of any guarantee of restitution granted pursuant to clause 2.11 above, if one of the Parties is legally capable of invoking immunity from jurisdiction or enforcement proceedings, in respect of itself or its assets, within the scope of performance of its obligations under this Agreement, it shall renounce such immunity to the fullest extent admissible under the applicable law.

### **4.3 Nullity or impossibility**

4.3.1 If any provision of this Agreement should be or become impossible, violate a mandatory legal provision, this shall not affect its validity. The commissions in the Agreement resulting from said impossible or illegal provision shall be filled so as to correspond as far as possible with the meaning and the purpose of said impossible or illegal provision being, taking into account the principles set out in clause 1.2.6 above.

### **4.4 Law applicable to the Agreement and competent courts**

#### **4.4.1 The Agreement is governed by Swiss law.**

4.4.2 The courts at the place of the registered office or of the domicile of each Party as set out on the first page of this Framework Agreement shall have exclusive jurisdiction in respect of any type of proceedings relating to the Agreement. If only one Party is not domiciled in Switzerland, the courts and authorities of the place of the registered office of the other Party shall have exclusive jurisdiction to decide in respect of any type of proceedings and debt collection proceedings.

On behalf of Party A:

Place, date

Identity (Company name of Party A or Name and first name of Party A)

Authorised signature(s)

Name(s) and first names(s) of (the) signatory(ies)

On behalf of Party B:

Place, date

Identity (Company name of Party B or Name and first name of Party B)

Authorised signature(s)

Name(s) and first name(s) of (the) signatory(ies)

VMS  
AMS

Verband der Museen der Schweiz  
Association des musées suisses  
Associazione dei musei svizzeri  
Swiss Museums Association

## **Appendix** to the Framework Agreement for the Temporary Loan of Collection Pieces





## **Appendix** to the Framework Agreement

dated

.....  
Date

between

.....  
Identity (Company name of Party A or Name and first name of Party A)

.....  
Street and number of the registered office or of the domicile

.....  
Postcode, place of the registered office or of the domicile

.....  
Country

(hereinafter: "Party A")

and

.....  
Identity (Company name of Party B or Name and first name of Party B)

.....  
Street and number of the registered office or of the domicile

.....  
Postcode, place of the registered office or of the domicile

.....  
Country

(hereinafter: "Party B")



A.5 Pursuant to clause 1.4, the intended use is the public presentation of the Collection Pieces in the context of an exhibition, unless another use is specified below or on the Loan Sheets:

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**B Insurance – Guarantee**

B.1 Pursuant to clause 2.5 of the Framework Agreement and unless the clauses below are completed with deviating provisions, the estimated value of the Collection Pieces is 100 % covered by the Borrower by insurance policy.

B.2 For Party A:

Where Party A is Borrower, the estimated value of the Collection Pieces under the Loans is covered by the following percentage:

..... % by an insurance;

..... % by the indemnity of the responsible authority; indicate its identity:

---

B.3 For Party B:

Where Party B is Borrower, the estimated value of the Collection Pieces under the Loans is covered by the following percentage:

..... % by an insurance;

..... % by the indemnity of the responsible authority; indicate its identity:

---

**C Addresses**

C.1 Each Party may change the following addresses by written notice to the other Party. If the mailing address is not completed, the addresses in the heading of this Appendix shall apply. If the references to the other means of communication are not completed, they shall not apply.

C.2 For Party A:

**Notification pursuant to clause 4.1 of the Framework Agreement**

---

Mail

---

Fax

---

E-Mail

**Contact person**

---

Contact person

---

Function

---

Telephone

---

E-Mail

C.3 For Party B:

**Notification pursuant to clause 4.1 of the Framework Agreement**

.....  
Mail

.....  
Fax

.....  
E-Mail

**Contact person**

.....  
Contact person

.....  
Function

.....  
Telephone

.....  
E-Mail

**D Photography and reproduction**

D.1 The reproductions provided by the Lender (particularly photographs, slides, transparencies or digital images) may be used may, without consideration on the part of the Lender in accordance with the following, subject to third party rights pursuant to clause 2.12.3 of the Framework Agreement. The appropriate boxes are to be ticked and in the event of inconsistent choices or in the absence of any choice, the default choice shall apply:

	<b>Authorised</b>	<b>Not authorised</b>	<b>Default choice</b>
Exhibition catalogue			authorised
Other catalogues/publications			not authorised
Photos for the press			not authorised
Cards/post cards			authorised
Exhibition posters			authorised
Videos-DVD			not authorised
Film, television			not authorised
Other recordings and image processing			not authorised
Promotional materials (e.g. T-Shirt, calendars, souvenirs, etc)			not authorised
Other:			
.....			not authorised
.....			not authorised
.....			not authorised
.....			not authorised
.....			not authorised

**E Special provisions**

---



On behalf of Party A:

.....  
Place, date

.....  
Identity (Company name of Party A or Name and first name of Party A)

.....  
Authorised signature(s)

.....  
Name(s) and first names(s) of (the) signatory(ies)

On behalf of Party B:

.....  
Place, date

.....  
Identity (Company name of Party B or Name and first name of Party B)

.....  
Authorised signature(s)

.....  
Name(s) and first name(s) of (the) signatory(ies)

VMS  
AMS

Verband der Museen der Schweiz  
Association des musées suisses  
Associazione dei musei svizzeri  
Swiss Museums Association

# Loan Sheet

for the Temporary Loan of Collection Pieces



# Loan sheet

for the Temporary Loan of Collection Pieces

## Lender

1

Legal identity of Lender (corporate name or last and first name)

2

Name of person responsible for loan on behalf of Lender (last and first name, role)

3

Lender's address (registered office or domicile; for transport see no. 34)

4 Contact details  As per annexe to signed framework loan contract, or

Telephone & Fax

E-Mail

## Borrower

5

Legal identity of Borrower (corporate name or last and first name)

6

Name of person responsible for loan on behalf of Borrower (last and first name, function)

7

Borrower's address (registered office or domicile; for transport see clause 34)

8 Contact details  As per annexe to signed framework loan contract, or

Telephone & Fax

E-Mail

**Designated use**

9 Display to general public in an exhibition context

Other use – please state:

.....  
Description

10

.....  
Name, place of exhibition

11

.....  
Curator/person in charge

12

.....  
Duration of exhibition/use from | to

13

.....  
Any other venues for which Borrower is responsible (identity of institution, duration)

14

.....  
Duration of loan from | to

**Description of item(s) loaned by Lender to Borrower**

- 15  As per appended list
- As follows:

16

.....  
Designation

17

.....  
Description/origin

18

.....  
Author/performer/brand

19

.....  
Title

20

.....  
Year/dating

21

.....  
Materials/techniques

22

.....  
Dimensions

23

.....  
Number of items (if lot)

24

.....  
Inventory number

25

.....  
Technical specifications

26

.....  
Particular environmental conditions

27

.....  
Assessed value (currency and amount)

- Temperature: ..... °C
- Humidity: ..... %
- Lighting: .....
- ..... : .....

**Insurance/guarantee**

28 As per signed framework loan contract  
As per insurance certificate/appende guarantee  
As follows:

29

.....  
Insurance company/supervisory authority, contact

30

.....  
Cover for assessed value/replacement value/restoration costs

31

.....  
Duration of insurance/guarantee from | to

32 In the event items are removed from Lenders country, Borrower shall furnish Lender with  
a written Immunity from seizure document supplied by host country:

No  Yes, to be furnished at the latest by .....

**Condition report**

33 As per appende document  
To be furnished by Lender  
As per description below:

.....

Condition of piece(s) and their accessories, plus indications as to any defects, deficiencies,  
wear and tear, soiling and previous restoration, as well as where these are located.

**Transport**

34 Hand-over to:

Carrier/shipping agent

Place and date

Receipt from:

Carrier/shipping agent

Place and date

35

Shipping specifications (packaging, etc.)

**Photographs/reproductions made available**

- 36  Photograph/slide appended
- Photograph/slide available
- Digital image appended (min. 300 dpi)
- Digital image available (min. 300 dpi)

Unless one of the following boxes is crossed, Lender is not making any such image available

37 Restrictions of use

As per annexe to signed framework loan contract

As follows:

**Following are permitted** unless the <not permitted> box is crossed:

- Catalogue  not permitted
- Posters  not permitted
- Cards/postcards  not permitted

Other

**Following are expressly forbidden** unless the <permitted> box is crossed:

- Other publications  permitted
- Press images  permitted
- Videos/DVD  permitted
- Merchandising  permitted

Other

**Appendices**

38 The following are appended and form an integral part of this Loan Sheet:

- Description(s) of the piece(s) lent (no. 15)
- Insurance certificate/guarantee (no. 28)
- Return guarantee (no. 32)
- Condition report (no. 33)
- Photos/reproductions (no. 36)
- Other:

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Description(s) of the Appendice(s)

**Other requirements**

39

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Description



This Loan Sheet forms an integral part of the **Framework Agreement for the Temporary Loan of Collection Pieces** of the Association of Swiss Museums (VMS/AMS) agreed where appropriate between the Lender and the Borrower or subject to provisions, recognised and accepted by them, to which they expressly refer by way of complement to this Loan Sheet if a framework contract has not yet been signed by both parties.

For the rest, the applicable directives and standards of the ICOM apply to this loan, in particular the ICOM's code of ethics and the ICOM's directives pertaining to the preparation of a loan contract, to documentation (CIDOC), to musical instruments (CIMCIM), to garments, to conservation (ICOM-CC), to historic house museums (DEMHIST), to the training of personnel (ICTOP) and to museum security (ICMS), as do future provisions introduced to amend, supplement or replace them.

For the Lender:

.....  
Place, date

.....  
Identity (Lender's corporate name or last and first name)

.....  
Authorised signature(s)

.....  
Last and first name(s) of signatory(ies)

For the Borrower:

.....  
Place, date

.....  
Identity (Borrower's corporate name or last and first name)

.....  
Authorised signature(s)

.....  
Last and first name(s) of signatory(ies)