**ART GALLERY OF SOUTH AUSTRALIA**

**Outward Loans Policy**

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9. **Purpose of this Policy**

The mission of the Art Gallery of South Australia (AGSA), as set out in its Charter, is to serve the South Australian and wider communities by providing access to original works of art of the highest quality. AGSA is committed to facilitating access to, and appreciation of, art through an active and wide-reaching Outward Loans Program that allows its collection to be presented and promoted to broad and diverse audiences across Australia and internationally.

This Policy sets out the key principles and criteria for the management of the Outward Loans Program in accordance with established legal, ethical and best practice standards. The controls, conditions and processes implemented for works of art approved for outward loan are outlined in the Outward Loan Procedures.

1. **Scope**

This policy applies to all activities relating to the outward loan of works of art from the collection of AGSA, including works of art under its long-term care, to other approved parties. It covers the loan of individual or multiple works to single venues or loans to travelling exhibitions consisting of multiple venues. The management of loans made available to South Australian Ministerial offices and other government buildings as a part of the Furnishing Loans Program is outlined in the Furnishing Loans Policy.

Nothing in this Policy detracts from the terms of any Loan Agreement (Outwards) or exhibition contract.

1. **Definitions**

In this policy;

**Aboriginal or Torres Strait Islander Art** means a work of art by an Aboriginal or Torres Strait Islander artist or containing Aboriginal or Torres Strait Islander themes or content.

**Collection** means works of art in various media that are AGSA property and have been formally accessioned. For the purposes of this Policy, the terms “work of art”, “work” and related terms are used interchangeably to describe all works of art acquired into the permanent collection.

**Due diligence** means the thorough assessment of a work of art to evaluate its authenticity, ownership and provenance and to identify and assess any gaps in this information.

**External Exhibition or External Travelling Exhibition** means an exhibition not organised by AGSA.

**Loan Agreement (Outwards)** means a formal, legally binding written contract between AGSA as lender, and the approved borrower specifying the work(s) of art and outlining the conditions and terms of the loan and the responsibilities of each party.

**Outward Loans** means any contracted arrangement for the transfer of possession of a work of art or other collection item that has been acquired by AGSA and accessioned into the collection to another party or parties, on a temporary basis, under which the AGSA grants a temporary right of possession to the borrower. The terms “lender”, ”borrower”, “lending” and “borrowing” and “loan” and all related or derivative terms are to be construed in the context of this definition and unless otherwise specified, references to outward loan or any related terms may apply to requested, potential, approved or realised loan arrangements.

**Provenance** means the history of ownership of an item from the time of its discovery or creation to the present day, from which authenticity and ownership is determined.

1. **Principles**

The Art Gallery Act, 1939, confers power upon the Art Gallery Board to approve loans from its collection that are of artistic, cultural and historical interest. In managing its Outward Loans Program AGSA will seek to balance the accessibility of the collection and its display in a variety of cultural and intellectual contexts, with practical and ethical considerations regarding the ongoing long-term care, preservation and responsible stewardship of the collection.

AGSA will manage and negotiate outward loans on terms that are respectful, ethical, honourable, responsible and visible for public scrutiny. AGSA reserves the right to refuse loan requests if internal resources do not permit facilitation of the loan and reserves the right to cancel any approved loans or recall the works of art at any time given sufficient notice to the borrower.

AGSA will consider all loan requests made in writing to the Director at least 12 months prior to the required shipment of the works. In extraordinary circumstances consideration will be given to loan requests with less than the required notice on a case by case basis.

The Outward Loans Program will also be managed in a sustainable, resourceful and environmentally conscious manner whilst still undertaking best practice risk management and not compromising the AGSA’s reputation for integrity and excellence.

1. **Priorities**

In assessing a request for an outward loan, AGSA will consider a range of criteria specific to the object, the borrower and the Purpose of the Loan in order to determine whether to approve the loan request.

**5.1 Objects**

(a) AGSA will assess the material condition of the work requested for loan, including but not limited to, its ability to travel, especially to multiple venues, and the impact of handling, installation, light exposure and environmental conditions on the work whilst on loan.

(b) Consideration will be given to the availability of the work of art, including any commitments to current or planned AGSA programs and schedules, or prior commitments to other borrowers.

(c) AGSA will have regard to the provenance of the work of art requested for loan, in accordance with AGSA’s Provenance and Due Diligence Research Procedures.

(d) Consideration will be given to any restrictions imposed on the display or loan of the work under the terms of the acquisition or by virtue of the nature of the work.

(e) AGSA will not approve the loan of Aboriginal and Torres Strait Islander works identified as sacred/secret objects or other culturally sensitive material except in exceptional circumstances. All requests for Aboriginal and Torres Strait Islander works of art will be assessed for cultural and community concerns and where necessary AGSA will seek consultation as a part of its assessment process with its Cultural Advisory Committee, appropriate individuals, groups or communities within Australia and act in accordance with its Reconciliation Action Plan.

**5.2 Borrower**

1. AGSA will lend works to recognised regional, national and international cultural institutions for exhibition and display purposes only. AGSA may consider outgoing loans for other purposes, including but not limited to conservation or provenance research, on a case by case basis.

(b) AGSA will not lend to commercial galleries, institutions, corporations or venues, or to private individuals.

(c) The loan of works will be for a clearly designated period of time and to confirmed venues.

(d) AGSA will seek to control and mitigate the risk of theft, loss, or seizure of the works on loan, or of civil or criminal proceedings or any other act that would compromise AGSA’s collection or its position and reputation. Where available within the borrower’s jurisdiction the borrower must undertake, when requested, to ensure that immunity from seizure and/or other legal protection for the works on loan is secured prior to the commencement of the loan.

(e) AGSA and the borrower will ensure any outward loan does not contravene existing state, national and international legislation, conventions, treaties or laws that control the movement of cultural objects.

(f) AGSA will not permit borrowers to assign or transfer any of their rights, powers or obligations to a third party under a sub-bailment, or substitutional bailment arrangement or to transfer possession of the work to a third party without AGSA’s prior consent.

(g) Consideration will be given to the adequacy and suitability of the borrower’s facilities, including all touring venues, and the ability of the borrower to meet and maintain facility, environmental and security requirements in accordance best practice standards.

(h) All borrowers will be assessed for their ability to administer, manage and oversee the loan and comply with the terms of AGSA Loan Agreement (Outwards) and any other conditions as prescribed by AGSA throughout the loan period.

(i) Borrowers must agree to, and be capable of, covering all costs as negotiated with AGSA regarding the loan, including but not limited to packing, transport, customs arrangements, courier costs and insurance.

(j) Due consideration will also be given to the political and financial stability of the country or region in which the loan items will reside.

* 1. **Purpose of loan**

1. AGSA will assess the scholarly, artistic and/or educational purpose of the proposed exhibition or display concept and ensure the interpretation of the works on loan is consistent with the objectives and values of AGSA.
2. AGSA will require the borrower to warrant that they have no reasonable cause to believe any object in the exhibition, in which an AGSA work will be displayed, has been stolen, improperly attributed, illegally exported or illegally excavated from its country of origin. All exhibitions will be assessed for their potential to cause reputational harm to AGSA and where it may be seen that AGSA condones illicit activity.
3. Where not already negotiated as a Travelling Exhibition coordinated by AGSA, if the requested works of art constitute over 50% of the content of the borrower’s exhibition, AGSA may request to be credited as a partner and to contribute to decision-making about display and interpretation of the works on loan.
4. **Roles and Responsibilities**

This policy applies to all AGSA staff involved in the negotiation, processing and approval of all outward loans from AGSA. Defined roles and responsibilities are outlined in the Outward Loan Procedures. All relevant Department Heads are responsible for ensuring that AGSA staff under their management are aware of, have an understanding of, and are implementing the requirements of this Policy.

**7. Related Policies and Procedures**

**7.1** AGSA Policies and Procedures

AGSA Strategic Plan 2019-2022

Acquisitions Policy

Due Diligence and Provenance Policy

Due Diligence and Provenance Procedures - to be revised 2020

Inward Loans Procedures – to be revised 2020

Outward Loan Procedures – to be revised 2020

Furnishing Loan Policy – to be revised 2020

Risk Policy

Reconciliation Action Plan

Code of Ethics for the South Australian Public Sector

**7.2** National and International legislation, guidelines and procedures

Protection of Movable Cultural Heritage Act 1986

Protection of Movable Cultural Heritage Regulations 2018

Protection of Cultural Objects on Loan Act 2013

Protection of Cultural Objects on Loan Regulation 2014

ICOM Code of Ethics

Museums Australia Code of Ethics

Australian Best Practice Guide to Collecting Cultural Material

Bizot Group, Loans Guidelines, 18 December 2009

UNESCO Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property

CITES: Convention on International Trade in Endangered Species of Wild Fauna and Flora (Amendment) 1979

United National Declaration on the Rights of Indigenous Peoples 2007

Aboriginal and Torres Strait Islander Heritage Protection Act 1984

Aboriginal Heritage Act 1988

Biosecurity Act 2015

Customs Act 1901

1. **Review**

This policy will be reviewed after its first year of operation and then on a five-yearly basis.

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| Policy endorsed by Audit Committee | 14 May 2020 |
| Policy approved by Art Gallery Board | 24 June 2020 |
| Policy reviewed after first year of operation  (to be reviewed again in 2026) |  |