

EXHIBITION LOAN CONTRACT

Masterpieces from the Johannesburg Art Gallery, from Monet to Warhol

To be held July 2022 - January 2023

Loan number: L.2022.1

MEMORANDUM OF AGREEMENT

BETWEEN

**JOHANNESBURG ART GALLERY
CITY OF JOHANNESBURG METROPOLITAN MUNICIPALITY**

(Hereinafter referred to as the "Lender/ South African Institution")

Herein represented by **VINCENT CAMPBELL** in their capacity as **EXECUTIVE DIRECTOR
COMMUNITY DEVELOPMENT** and duly authorised to do so

AND

FRANCESCO PODESTI MUNICIPAL GALLERY

(Hereinafter referred to as "Francesco Podesti Municipal Gallery")

Herein represented by MARIA VITTORIA CARLONI in their capacity as **MUSEUM CURATOR**,

and duly authorised.

AND

ViDi

(Hereinafter referred to as "ViDi")

Herein represented by **LUIGI EMANUELE ROSSI** in their capacity as **PRESIDENT** and duly authorised.



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(Hereafter jointly referred to as the "Borrowing parties/Foreign Institution")




ViDi s.r.l.
Viale Andrea Doria 5, 20124, Milano
c.f. e p. 08713100967



TERMS AND CONDITIONS

The Lender agrees to lend the Work of Art to the Borrowing parties on the following terms and conditions of this agreement which is contracted subject to the terms of the main agreement signed by both parties on 23 March 2022.

1. INTERPRETATION

- 1.1 In addition to the words defined in bold and upper case on the face of this Agreement, unless the context otherwise requires, the following words and expressions shall have the following meanings:

"Condition Report"-

The individual report prepared in respect of the Work of Art document and its conditions throughout the Loan Period;

"Reproduction"-

Any form of reproduction including, but not limited to photography film, digital image and television coverage;

- 1.2 Headings are for convenience only and shall not affect interpretation of this Agreement.
- 1.3 Where the context so admits;
- i. words importing the singular the plural and vice versa;
 - ii. words denoting the masculine gender include the feminine.
- 1.4 Reference to a clause is to a Clause of this Agreement unless otherwise specified.
- 1.5 Reference to any enactment shall be construed as a reference to the enactment as amended or re-enacted by any subsequent enactment, order, regulation or instruments.

2. THE LOAN

- 2.1 The Lender hereby warrants that it is the legal and beneficial owner of the Work of Art, or in that he is authorized to enter into the loan agreement on behalf of the legal and beneficial owner.



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- 2.2 The South African Institution will apply for permission from the South African Heritage Resources Agency (SAHRA), and the South African Reserve Bank (SARB) for permission to temporarily export the objects. The decision to grant such permission rests with these institutions and is not with the South African Institution. If permission to export is granted/not granted, the South African Institution will promptly notify the Foreign Institution and provide the Foreign Institution with an original copy of the permit/s or letter of decline. In the event of the permit/s being granted, the Foreign Institution and the South African Institution will then undertake their responsibilities hereunder, to fully implement the loan.
- 2.3 Applicable laws and regulations will be adhered to in international shipments. The South African Institution is responsible for adhering to South African import/export requirements and the Foreign Institution is responsible for adhering to its country's laws for the protection of cultural property and its import/export requirements.
- 2.4 The objects on loan may not be treated or modified in any way without the prior written permission of the South African Institution and a permit from SAHRA, if applicable.
- 2.5 The South African Institution will loan the objects as detailed on the South African Heritage Resources Agency/ SAHRIS permit application to the Foreign Institution for the *Masterpieces from the Johannesburg Art Gallery, from Monet to Warhol* exhibition only.
- 2.6 The Foreign Institution and its agents may not enter into any other agreement concerning the material without prior written consent of the South African Institution and the approval of SAHRA.
- 2.7 The Lender agrees to lend the Work of Art, as listed in Annexure "A", to the Borrowing parties and the Borrowing parties agree to accept the Work of Art on loan subject to the terms of this Agreement.
- 2.8 The Lender hereby agrees to the Borrowing parties lending the Work of Art to the Tour Venue on the terms and conditions of this Agreement that shall at all times be responsible for the Work of Art and shall in all respect be accountable and liable to the lender.
- 2.9 The Lender should receive at least four copies of the exhibition catalogue and any related press material for its Library and Archives. This must include a copy for submission to the South African Heritage Resources Agency.

3. DURATION AND EXPENSES OF THE LOAN




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3.1 The Loan shall be for 63 artworks (as detailed in Appendix A) for the Loan Period beginning on 30 July 2022 up until and including 15 March 2023 for the purposes of the exhibition *Masterpieces from the Johannesburg Art Gallery, from Monet to Warhol* unless terminated earlier in accordance with this Agreement

3.2 Subject to the provisions in Clauses 14 and 22, the Borrowing parties shall cover all reasonable expenses associated with the Loan including those incurred by Tour Venue

4. CREDITS AND ACKNOWLEDGEMENTS

4.1 The Credit Line acknowledges the Lender at all time and shall be displayed in the exhibition and in any printed material in which the Works of Art are reproduced.

5. CONDITION REPORTS AND PROCEDURES IN THE EVENT OF LOSS OR DAMAGE

5.1 A qualified conservator appointed by ViDi produce a Condition Report for each of the Work of Art as soon as reasonably practicable on receipt of the Work of Art at each Tour Venue. The Condition Report shall be signed and dated by a suitably qualified and duly authorized member of ViDi.

5.2 The appointed conservator shall regularly check the condition of the Work of Art throughout the Loan Period. Any change in the conditions of the Work of Art shall be noted and immediately reported in writing to the Lender.

5.3 Save as set out herein, the Borrowing parties shall not carry out or allow the Tour Venue to carry out any conservation treatment on or modification to the Work of Art without the prior written consent of the Lender. In situations requiring immediate action the Lender may provide verbal consent and directions concerning any necessary treatment or handling of the Work of Art, which shall thereafter immediately be confirmed by the Lender. In the event of an emergency when the Lender cannot be contacted, a suitably qualified member of the Borrowing parties may take appropriate action and shall immediately inform the Lender thereof in writing.

5.4 The Borrowing parties shall in the event of emergency as referred to in clause 5.3 immediately amend the Condition Report accordingly and shall provide the Lender immediately with a full report of any work carried out on the Work of Art in accordance with Clause 5.5.

5.5 If any Work of Art is/are damaged, lost or stolen the Borrowing parties shall immediately inform the Lender in writing of the event and the cause, if known.



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- 6.6 The Borrowing parties shall photograph any damage or change in the condition to the Work of Art at the time the damage or change in condition is discovered and the photograph shall be included in the Condition Report and the report to the Lender.

6. SECURITY AND SAFETY

- 6.1 Any Work of Art having overall measurements of 30 x 50 cm or less will be fixed securely to the wall of the exhibition room by a means which shall be approved by the Lender (e.g. screws or other fixing methods) in writing.
- 6.2 Throughout the time when the exhibition is open to the public the Work of Art will be hung within continuous sight of a security guard.
- 6.3 At all times the Work of Art will be constantly guarded by security guards and also protected by proper electronic security systems.
- 6.4 The Borrowing parties shall be responsible for and shall ensure that the Tour Venue is/are responsible for the security of the Work of Art throughout the Loan Period in accordance with recognized museum standards.

7. INSURANCE AND LOSS

- 7.1 ViDi shall insure Work of Art for the duration of the loan period on the following terms:
- a) All risks
 - b) Nail to nail
 - c) Cover any loss or damage including depreciation in value of the Work of the Art. ViDi shall forward copies of insurance documentation to the Lender. No Work of Art shall be allowed to leave the Lender premises on loan to any location until proof of insurance and payment of the premiums has been produced to the Lender.
- 7.2 The Lender shall obtain a valuation of the Work of Art for insurance purposes
- 7.3 ViDi shall ensure that the Lender is indemnified for the duration of the Loan Period, as set out in the accompanying Indemnity Agreement.

8. COURIER



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8.1 A courier(s) from the Lender at the costs and expenses of ViDi shall accompany the Works of Art at all times during their transportation from the Lenders collection address and the Francesco Podesti Municipal Gallery premises. The courier(s) will be responsible for witnessing and supervising packing, unpacking after the acclimatization period (twenty-four hours), transportation, and examination of the Works of Art at the beginning and end of transportation at all stages.

8.2 All expenses relating to the courier(s) shall be for the account of ViDi. These costs include all airfare costs relating to the loan and exhibition of the Work of Art, visa charges, travel insurance, accommodation costs, per diem allowance and airport transfer on both sides.

9. PHOTOGRAPHY, REPRODUCTIONS AND PUBLICITY

9.1 The Lender hereby gives permission for the reproduction for Work of Art as listed in Annexure "A", for the purposes of publicity and education directly related to the Exhibition, but only if any reproduction is supervised by a suitably qualified member of the Borrowing parties.

9.2 It is understood that objects for display may be photographed by the general public.

9.3 Except as provided in this Agreement, the Borrowing parties shall not permit reproductions of any type, in any medium, to be made of the Work of Art for any reason without the prior written consent of the Lender.

10. ENVIRONMENTAL CONDITIONS

10.1 The Borrowing parties must ensure that environmental conditions, as specified in the facilities report, are maintained at all times.

10.2 The Work of Art must at all times be protected from shock, surface damage, insects, rodents, mould and humidity and temperature fluctuations.

10.3 The Lender must approve in writing proposed methods of display for all objects.

10.4 No smoking will be permitted in any area where any work of art is located packed, stored or exhibited at any time.

11. PACKAGING, TRANSPORT, SHIPPING

11.1 Suitable packaging for transit must be approved by the Lender, but is the financial responsibility of ViDi.



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- 11.2 Professional packing and transport agents must be approved by the Lender, all cost incurred at the expense of VIDI.
- 11.3 Handling, that is, packing, unpacking, exhibiting, assembling and disassembling, may only be carried out by the conservator / a suitably qualified staff approved by the Lender, or by qualified conservation staff of the borrowing institution, approved by the Lender.
- 11.4 All loaned/exhibited objects will not be framed or removed from mounts or hangers, cleaned, repaired, retouched, altered or transported in damaged condition except:
- with the express prior written permission of the South African Institution;
 - when the safety of the object makes such an action necessary.

12. INSPECTIONS AND REPORT

12.1 The Lender requires the Borrowing parties to:

- Save the packing materials (while the items are being exhibited) in a dry place and if the packaging is damaged, to carry out the necessary repairs or suitably replace it;
- Ensure that all movements of the exhibited object are carried out in the presence of a conservator or other suitably qualified person approved by the Lender;
- Open the display cases (if applicable) only with the consent of and in the presence of an approved person;
- Submit a facilities report, based on best practice (SAMA, ICOM, ICCROM guidelines)
- Submit a condition report on receipt of the objects;
- Submit a condition report after the exhibition;
- Submit a detailed proposal/request regarding the exhibition

12.2 At least a month prior to packing the Work of Art in preparation for departure from the Lending institution, a conservator / a suitably qualified staff approved by the Lender will prepare a condition report for administration and tracking record purpose, on all loan material.

12.3 On receipt of the Work of Art (arrival and unpacking of the Work of Art), at the Francesco Podesti Municipal Gallery, a conservator appointed by VIDI and in consultation with the Lender must complete and sign a Condition Report on each Work of Art in the presence of the courier from the Lending Institution where the courier has been appointed. On completion of the unpacking / inspection of the Work of Art, prior to exhibition thereof, a copy of the Condition Report for each Work must be forwarded or submitted to return with the courier. Prior to packaging at the end of the exhibition, a conservator appointed by VIDI and in consultation with the Lender must complete and sign a Condition Report on each Work of Art, in the presence of the courier from the Lending institution where courier has been appointed. On completion of the inspection and packing of the Work of Art, a copy of the Condition Report for each work



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must be forwarded or submitted to return with the courier, where a courier has been appointed.

12.4 All documentation regarding the receipt of the objects to South Africa and all condition reports must be submitted to SAMRA

13. NO ASSIGNMENT AMENDMENT WITHOUT CONSENT

13.1 This Agreement is personal as between the Borrowing parties and neither the Lender nor the Borrowing parties can assign the benefit of this Agreement without the other's prior written consent.

13.2 No amendment or addition to this Agreement shall be made unless made in writing and executed by the Borrowing parties.

14. TERMINATION

14.1 The Lender may recall the Work of Art during the Loan period after giving the Borrowing parties not less than 14 days written notice of its intention to do so. Any such return shall be at ViDi's cost.

14.2 The Borrowing parties may return the Work of Art to the Lender during the Loan Period after giving the Lender not less than 14 days written notice of its intention to do so. Any such return shall be at ViDi's cost.

14.3 Either party shall be entitled to terminate this Agreement in writing forthwith if the other commits a material breach of this Agreement. The party in breach shall be responsible for all loss, costs and damages resulting from the breach.

14.4 If either party terminates this Agreement the Borrower and ViDi shall immediately return the Work of Art to the Lender at ViDi's costs.

14.5 Notwithstanding termination of this Agreement, Clauses 6, 7, 15 and 19 shall survive the cancellation.

15. NO JOINT VENTURE OR PARTNERSHIP



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15.1 The Borrowing parties are not partners or joint ventures nor is the Borrowing parties entitled to represent itself as agent for the Lender nor pledge the Lender's credit

16. GOVERNING LAW

16.1 The Borrowing parties shall have the option to institute any action or proceedings arising out of this Agreement in a Magistrate's Court of competent jurisdiction in the Republic of South Africa. The Borrowing parties hereby consent to the said jurisdiction, such consent being regarded as an ad-hoc consent with regard to any action or proceeding brought by the Lender in such Court, or

16.2 To institute such action or proceedings in a High Court of competent jurisdiction in the Republic of South Africa.

17. FORCE MAJEURE

17.1 The obligation of each party under this Agreement shall be suspended during the period and to the extent that such party is prevented or hindered from complying with these obligations by any cause beyond its reasonable control (an "Event of Force Majeure") which shall include but not be limited to strikes, malicious damage, breakdown of plant or machinery, fire or flood.

17.2 In the event of either party being so hindered or prevented, it shall give to the other written notice of suspension and the Event of Force Majeure as soon as reasonably possible. Any party whose obligations have been so suspended shall resume performance of these obligations as soon as reasonably possible, and notify the other party accordingly. In the event that either party is unable to resume its obligation as a result of an Event of Force Majeure for more than one (1) month either party may terminate this Agreement forthwith by notice in writing.

18. RIGHTS OF THIRD BORROWING PARTIES

18.1 No person who is not a party to this Agreement shall have right under the Agreement.

19. DISPUTE

19.1 If any difference or dispute shall arise between the Borrowing parties and the Lender arising directly or indirectly from this Agreement then the Borrowing parties and Lender shall first use their reasonable endeavours to resolve the matter failing which they shall proceed in accordance with the provisions of the Arbitration Act 1965, as amended or any amending or substitute from time to time in force.

20. ENTIRE AGREEMENT




 VIDI
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21.1 This Agreement represents the entire understanding of the Borrowing parties with respect to this Agreement and supercedes all other agreements and representations with respect to these matters made either orally or in writing.

21. CHANGE OF OWNERSHIP

21.1 The Lender shall notify the Borrowing parties in writing as soon as reasonably possible, of any changes in the status of the Work of Art ownership, whether by reason of death, sale, insolvency, gift or otherwise.

21.2 The Borrowing parties may require the new owner to establish his legal title to the Work of Art being handed to him.

21.3 If the Lender's Address changes during the Loan Period the Lender (or new owner) shall pay any difference in the charges for delivery of the Work of Art.

21.4 If the Work of Art is/are sold during the Loan Period, the Lender (or new owner) shall pay for any associated costs, including, but not limited to, insurance, storage, customs, packing and/or shipping.

22. CONFIDENTIALITY

The Borrowing parties agrees that the contents of this Agreement and all information provided by the Lender relating to the loan of the Work of Art are confidential and may be shared with all other Tour Venues, but shall not be disclosed to any third party other than as may be required by law or as may be agreed between the Borrowing parties.

23. VARIATION

This contract cannot be varied, added to, or cancelled by agreement otherwise than by means of a further written agreement between the Borrowing parties.

24. NOTICES AND DOMICILIUM

24.1 Notices to be given by either party shall be in writing, unless otherwise specified in this Agreement, and shall be deemed to be duly given if sent by post, facsimile or by electronic mail.

24.2 Any notice or legal process to be served on either party may be served on it at the address specified hereunder and each party hereby chooses that address as its *domicilium citandi et executandi* for all purposes under this agreement.



ViDi
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24.3 A party shall be entitled to amend its address on an ad hoc basis by giving 7 (seven) days written notice to that effect to the other party.

24.4 For the purpose of this agreement the Borrowing parties' respective addresses shall be

as regards the JOHANNESBURG ART GALLERY at

Legal Services; 3rd Floor, A Block; Metro Centro
158 Loveday Street
Braamfontein
2017
SOUTH AFRICA

as regards the FRANCESCO PODESTI MUNICIPAL GALLERY at

Via Pizzecoli, 17
60121 Ancona
ITALY

as regards ViDi at

Vidi s.r.l.
Viale Andrea Doria 5
20124 Milano
ITALY



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SIGNED ON BEHALF OF THE FRANCESCO PODESTI MUNICIPAL GALLERY ON THIS TH 15th DAY OF JULY 2022

AS WITNESSES:

1. STEFANO ZUFFI, APPOINTED CURATOR

[Signature of Stefano Zuffi]

2. PAOLO MARASCA, COUNCILOR OF THE MUNICIPALITY OF ANCONA

[Signature of Paolo Marasca]

MARIA VITTORIA CARLONI *[Signature]*

FOR: FRANCESCO PODESTI MUNICIPAL GALLERY

SIGNED ON BEHALF OF THE JOHANNESBURG ART GALLERY AT JOHANNESBURG ON THIS THE _____ DAY OF _____ 2022.

AS WITNESSES:

1. _____

2. _____

[Signature]

FOR: JOHANNESBURG ART GALLERY
CITY OF JOHANNESBURG

SIGNED ON BEHALF OF VIDI ON THIS THE 18 DAY OF July 2022.

AS WITNESSES:

1. Fabio Sanvito

[Signature of Fabio Sanvito]

2. Michela Zanon

[Signature of Michela Zanon]

Luigi Emanuele Rossi

[Signature]

FOR: VIDI

