



AXA Art Insurance Collection Management Series: Loan Agreements: An Insurer's Perspective

by Vivian Ebersman, Director of Fine Art Expertise

As the owner of a respected collection, you may be asked to loan a work or works to a museum or gallery for a forthcoming exhibition. The many benefits of sharing your collection notwithstanding, loaning carries with it a risk of potential damage or loss to an object you greatly value. To mitigate risk, turn to the written loan agreement.

You will be able to find examples of generic loan agreements in reference sources such as Ralph E. Lerner and Judith Bresler, *Art Law*, Vol. 3, Ed. 3, or on the internet. Only sign off on a loan agreement that is entirely detailed regarding the who, what, when, where, and how of the transaction.

We list here some key areas covered in loan agreements for museums and galleries in the US. In thinking through the issues of greatest importance to you, it may be useful to seek professional advice. In the case of a loan to a gallery, it is crucial that you state clearly that the work is not for sale. For either institution, it is crucial that you evaluate their standard security protocol and request any additional measures you require relating to the presence of guards or stanchions, for example.

Identification

It is important that the following information is clearly stated on the loan agreement:

Owner: Your name and contact information as well as a statement of clear title come first. State how you

wish your credit to appear on all exhibition materials. If you do not own the copyright to the object, state that images of your work cannot be used without clearance of copyright.

Institution: The borrower's name and address as well as the exact dates of the loan, the name and location(s) of the exhibition, and the anticipated date of return must be included. You may also include the contact details of the curator and registrar. The borrower must acknowledge responsibility for care and preservation of your object throughout the duration of the loan.

Object: Attach a full description of each work including artist name or maker, title, year of execution, dimensions, medium, and edition number. Include high-quality images of the object. Take photographs of three-dimensional work from several perspectives. To determine the replacement value of your work, engage a certified appraiser or contact the dealer from whom you purchased the work. You may be very surprised at the change of value you find. Be ready to make the appropriate correction to your private insurance policy as well.

Shipping, Packing, Handling, and Installation:

It is customary for the borrower to assume responsibility for the packing and shipment of a loan. Stipulate not only that a reputable fine art shipper/packer be used, but also specify one whom you trust. If a custom-built crate is made for the loan, request that your work is returned in that crate. Do not agree to any transportation without proper packing, no matter how short the distance. All specific handling issues must be detailed in the agreement.

This may extend to particular details concerning the installation of the work, an option frequently used by artists loaning works.

Have a detailed condition report with images prepared before the work leaves your premises and again prior to leaving the borrower's location.

Insurance

Typically, the borrower will offer to use their existing insurance to cover any loss or damage, or to purchase a stand-alone policy for the loan. If you decide to accept the use of the borrower's insurance, be certain that the coverage is "nail-to-nail", that is, coverage should extend from the moment the object leaves your premises to the moment it is returned. Ask to be listed as a loss payee on the borrower's policy.

Additionally, request a certificate of insurance (COI) from the borrowing institution. This is a statement of proof that the borrower has insurance in place on that day in the amount that will cover the value of your loan. You will want to inquire about the borrower's insurance coverage. How is partial damage handled? Is there a provision for loss in value? It is safest to accept the borrower's insurance coverage while keeping your own insurance in place as a back-up. In any event, make certain that the replacement value on the loan form and on your insurance policy are the same.

For more information on insuring your collection, please contact 888-873-6931.

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