



## CONDITIONS OF MEMBERSHIP OF COLLECTORPLAN

### 1. Definitions and Interpretations

1.1 In these Conditions the following words and expressions shall have the following meanings.

**Buyer** a private individual that applies for a Collectorplan loan

**Members** galleries registered with the Arts Council of Wales Collectorplan service

**Original Works** a work of art or craft which has been produced by the named artist or maker using production processes over which such artist or maker has exercised personal control

**Professional Artist** an artist or maker that has received training, gained qualifications and is a practicing artist with a track record of producing and/or selling Original Work. If there is any doubt, the artist's CV may be submitted to Arts Council of Wales for consideration

**Works** a work of art or craft which meets the criteria set out in condition 6

### 2. Introduction

2.1 Collectorplan is a service operated by Arts Council of Wales. Through Collectorplan private individuals may borrow money (interest-free) to assist with the purchasing of Works from galleries in Wales which are Members of the Collectorplan service.

2.2 These conditions describe the Collectorplan service and the conditions and procedures governing gallery membership. All descriptions of Collectorplan and all advertisements, statements and announcements relating to it will be based on and be consistent with the Collectorplan service as outlined in these conditions.

2.3 Arts Council of Wales reserve the right to make changes or amendments to the policies, procedures, rules and regulations governing Collectorplan which shall be issued as amendments to this document.

2.4 Members and Buyers should note that Arts Council of Wales does not warrant (under any circumstances) the authenticity or the value or the condition of the works of art that are the subject of any transaction and agreement through Collectorplan. This does not affect the Buyer's statutory rights.

2.5 Only Members may operate the Collectorplan service

### **3. Applying to be a Collectorplan Member**

3.1 Galleries which operate as sole traders, partnerships or companies can apply to be a Collectorplan Member, provided that any sole trader must be over 18 years of age.

3.2 Applications from galleries wishing to join Collectorplan may be made at any time:

- Application packs are available from the Coordinator (Collectorplan) and completed applications must be submitted to the Coordinator
- Arts Council of Wales will acknowledge receipt of the gallery's application
- The applicant will be checked for suitability for membership as soon as possible after the application has been received
- The decision regarding the applicant's suitability will be communicated to the applicant, in writing, at the earliest opportunity

3.3 Applicants deemed to be suitable for membership will proceed to full assessment by Arts Council of Wales when sufficient financial and administrative resources become available.

3.4 The assessment procedure will be as follows:

- i. A nominee of Arts Council of Wales will visit the gallery, meet with appropriate staff and ask further questions
- ii. An evaluation report will be produced, based on the criteria set out in condition 4.
- iii. On the basis of the above report, recommendations will be made to Arts Council of Wales' Portfolio Manager with responsibility for Collectorplan as to whether the gallery's application should be approved or rejected
- iv. If unsuccessful, galleries will be informed of which criteria they fail to meet

3.5 Upon application, Arts Council of Wales will make reasonable enquiries of applicants (where the applicant gallery is a sole trader), partners (where the applicant gallery is a partnership) and applicant and its directors and shareholders (where the applicant gallery is a company) in order to ensure that the same are not un-discharged bankrupts, disqualified directors or persons holding unsatisfactory County Court Judgements or police convictions which would, in the opinion of Arts Council of Wales, adversely impact upon the administration of Collectorplan and jeopardise the goodwill of Collectorplan.

3.6 All Members must be capable of operating a UK bank account, and be capable of administering standard banking procedures on regular payments and BACS payments from their trading premises or Gallery.

3.7 By submitting an application to become a Collectorplan member, a gallery and its directors, management, committees and staff are making an offer to subscribe to the Collectorplan service which, if accepted by Arts Council of Wales, will result in a legally binding contract. Acceptance shall be deemed to have taken place, and a gallery's membership will commence, on a nominee

of Arts Council of Wales countersigning the application form and notifying the gallery that its application has been successful.

#### **4. Criteria in Assessing Galleries**

4.1 In assessing an application for gallery membership, Arts Council of Wales requires that the following membership criteria are met:

- i. a significant function of the gallery must be supporting the exhibition and sale of Original Works;
- ii. the gallery must be committed to a programme of exhibitions by a range of Professional Artists to include artists based in Wales;
- iii. the gallery exhibition area must be open to the public with clearly advertised, regular opening hours (not solely by appointment);
- iv. a member of the gallery's staff must always be available in the gallery, able and ready:
  - a) to talk about work and the exhibition, and
  - b) to effect a sale;
- v. the gallery must stock and exhibit a higher proportion of Original Works. Mass produced giftware/reproductions must not be the priority of the gallery;
- vi. the gallery must have a commitment to, and strategy for, marketing and encouraging sales. This must include the appropriate mix of postal, email and social media communication to both visitors and media contacts;
- vii. the gallery must promote equal access for all. This must include making every effort to allow access for disabled people into the exhibition space (more about Arts Council of Wales' commitment to equality and diversity can be found [here](#));
- viii. when agreeing to exhibit artists' work, the gallery must produce a written agreement signed by the gallery and the artist, stating 1) that the gallery is acting on the artist's behalf, 2) whether work is to be on exhibition or held in store, 3) the period for which work will be held by the gallery, 4) the agreed selling price, 5) the commission rate to be charged by the gallery as a result of a sale and 6) terms of payment of artist (no more than 30 days). A list of works held must be produced and given to the artist;
- ix. a bill of sale must be produced by the gallery once a sale has been agreed and copies given to the purchaser and the artist (the gallery need not forward a copy of this to Arts Council of Wales although it must be available on request);
- x. the gallery must have a trading record of not less than twelve months, although Arts Council of Wales may consider galleries with a shorter trading record if personnel involved have a strong track record/previous experience of Collectorplan;
- xi. the applicant (where the applicant gallery is a sole trader), partners (where the applicant gallery is a partnership) and applicant and its directors and shareholders (where the applicant gallery is a company) must not be undischarged bankrupts, disqualified directors or persons holding unsatisfactory County Court Judgements or police convictions which would in the opinion of the Arts Council of Wales adversely impact upon the administration of Collectorplan and/or jeopardise the goodwill of Collectorplan.

- 4.2 In assessing a gallery's application for membership the nominee of Arts Council of Wales will also take into account the overall appearance of the gallery. Particular attention will be paid to the manner in which the works of art and craft are displayed to ensure advantageous viewing conditions. The availability of information about the work on display will also be noted.
- 4.3 In assessing a gallery's application for membership the nominee's visit will be informal, and need not involve the interviewing of staff.

## **5. Monitoring Members and termination of membership**

- 5.1 In accepting membership of the Collectorplan service, a gallery and its directors, management, committees and staff shall thereby be taken to have accepted and agreed to all the conditions and procedures of the Collectorplan service.
- 5.2 At least biannually, a nominee of Arts Council of Wales will visit Collectorplan Members to complete a form assessing whether the gallery continues to comply with the conditions of membership.
- 5.3 If a Member becomes aware that it no longer complies with the conditions of membership, it must notify Arts Council of Wales of this immediately in writing.
- 5.4 If the Member assessment provides evidence that the gallery no longer complies with the Collectorplan conditions of membership, an Arts Council of Wales nominee will make an appointment to discuss specific areas of concern. A final decision will then be made as to cessation or continuance of Collectorplan membership.
- 5.5 Membership will also cease if there is a change in ownership of the gallery. If a Member becomes aware that it is to undergo a change in ownership, it must notify Arts Council of Wales of this immediately in writing. If the new owner wishes the gallery to become a Collectorplan member, they must re-apply and will be considered as a new applicant.
- 5.6 The Member must notify Arts Council of Wales immediately in writing of any change of the Member Gallery's name or address.
- 5.7 In accepting Membership of the Collectorplan service, a gallery and its directors, management and staff shall agree to provide to Arts Council of Wales, from time to time, and as required, details of the volume and value of sales of works of art by living artists, whether or not these sales are part of the Collectorplan service. This information (essential to Arts Council of Wales' monitoring of the effects of the Collectorplan service) will be for Arts Council of Wales' own internal use only and will be treated in absolute confidence.
- 5.8 A Collectorplan Member shall make available to Arts Council of Wales on request a list of all artists represented by the gallery and inform Arts Council of Wales of any changes made. All information will be treated as confidential.
- 5.9 A Collectorplan Member shall make audited accounts available to Arts Council of Wales on request. All information will be treated as confidential.

5.10 A Member may withdraw from membership of the Collectorplan service at any time by giving three months' prior notice, in writing, to Arts Council of Wales.

5.11 Where membership is terminated, a gallery may re-apply after a period of twelve months.

## 6. Eligible Works

6.1 Collectorplan loans are available to assist only with the purchase (other than for resale) of works of art and craft which meet the criteria set out in this condition 6.1:

- i. the work must be an Original Work by a living Professional Artist (subject to conditions 6.7, 6.8 and 6.9 below);
- ii. the work must demonstrate originality;
- iii. the work must illustrate contemporary practice or re-appropriate traditional methods and styles beyond reproduction;
- iv. the work must exist and have been complete at the time of an application for a Collectorplan loan. Collectorplan loans are not available for the commissioning of works of art and craft.

6.2 Collectorplan cannot be used for the resale of works.

6.3 Where the work is limited edition, the gallery must record the edition number/size of edition on the loan agreement.

6.4 Works **ineligible** for loans through Collectorplan include:

- i. works created through the assemblage or decoration of bought-in components
- ii. mass-produced giftware (which may include items made or finished by hand)
- iii. works that are not produced by the named artist or craftsman exercising personal control over the production processes
- iv. reproductions of a work originally created in another medium
- v. print runs of over 150

6.5 The Member must only submit an application for a Collectorplan loan in respect of a Work.

6.6 In all cases of doubt, adjudication will be given by a specialist officer of Arts Council of Wales, whose decision on whether a particular work qualifies for a Collectorplan loan will be final.

6.7 Should the artist pass away before or during an exhibition, after already having arranged the exhibition, works will still be eligible for Collectorplan for the duration.

6.8 In the case of an artist dying after an application for a Collectorplan loan has been made, the application will be processed as if the artist were still living. In such a case, it is the responsibility of the Member, where acting as agent for the deceased artist, to ensure that the work in question is still available for sale and to notify Arts Council of Wales immediately if the work is withdrawn from sale. It will also be the responsibility of the Member to inform The Arts Council of Wales immediately upon the death of one of their stable artists.

6.9 The death of the artist after the completion of the purchase of a work, but before the balance due under the Collectorplan loan has been paid, shall in no way affect the contractual relationship between the Buyer and Arts Council of Wales.



## OPERATION OF COLLECTORPLAN

### 1. Definitions and Interpretations

- 1.1 Unless stated otherwise, all defined terms shall have the same meaning as in the **Conditions of Membership**.
- 1.2 In these guidelines the following words and expressions shall have the following meanings.

**Allocation** an amount of money earmarked for loans to customers of the Member that is effective for a twelve month period commencing 1 April

### 2. Introduction

- 2.1 Collectorplan is a service operated by Arts Council of Wales. Through Collectorplan private individuals may borrow money (interest-free) to assist with the purchasing of works of art from galleries in Wales which are Members of the Collectorplan service.
- 2.2 These guidelines describe the Collectorplan service and the conditions and procedures governing gallery membership. All descriptions of Collectorplan and all advertisements, statements and announcements relating to it will be based on and be consistent with the Collectorplan service as outlined in these guidelines.
- 2.3 Arts Council of Wales reserve the right to make changes or amendments to the policies, procedures, rules and regulations governing Collectorplan which shall be issued as amendments to this document.
- 2.4 Only Members may operate the Collectorplan service.

### 3. Authenticity of Works

- 3.1 Members and Buyers should note that Arts Council of Wales does not warrant (under any circumstances) the authenticity or the value or the condition of the works of art that are the subject of any transaction and agreement through Collectorplan. This does not affect the Buyer's statutory rights.
- 3.2 Members must not represent in any manner, that Arts Council of Wales or any paperwork which Arts Council of Wales produce or any loan application Arts Council of Wales approve (directly or indirectly), represents any independent confirmation or statement of validity of any authenticity

claims. Buyers must satisfy themselves as to the merit, value, investment opportunity, authenticity and condition of any work of art purchased through the scheme.

- 3.3 Members should, as a matter of fair business practice, emphasise to the Buyer that the artist has represented that the artist has proof of authenticity as to the work of art being an Original Work. However, if a Member repeats any false or inaccurate description, gives a false assurance or misstates a condition as to the authenticity, it is either a statement for which the Member is liable as the agent of the artist who made the description, assurance or condition, or a statement for which the Member is liable as author of the statement.

#### **4. The Buyer**

- 4.1 Only private individuals may apply for and receive a Collectorplan loan.
- 4.2 Collectorplan loans are only available to UK residents over the age of 18. There is an expectation that any works of art and craft purchased under the scheme shall not be removed from the United Kingdom within the period of the loan.
- 4.3 The Buyer must have a bank account or building society account which can accept direct debits.
- 4.4 Collectorplan loans will not be available to Arts Council of Wales' Chief Executive, or other members of the Senior Management Team or the Head of Finance and Accounting.

#### **5. The Service**

- 5.1 Arts Council of Wales is responsible for the operation of the Collectorplan service and loan financing, under the names of "Arts Council of Wales", "Cyngor Celfyddydau Cymru", "Collectorplan" and "Cynllun Casglu".
- 5.2 The terms of Collectorplan are within the parameters of the amended Financial Services and Markets Act 2000 (Regulated Activities) Order 2001 (SI 2015/352) which negates the need for Members to obtain authorisation from the Financial Conduct Authority.
- 5.3 Arts Council of Wales is not responsible, or in any way to be associated with, any other financial product offered by Members.

### **Collectorplan Loan terms**

#### **6. The Credit Limit**

- 6.1 Credit from £50 to a maximum of £5,000 can be made available towards any one purchase or group of purchases. The Buyer can apply for a loan to cover the whole or any part of the price of one or more works to a maximum personal credit limit of £5,000. The credit limit of £5,000

relates to both any new application being made by the Buyer, and any existing debt he or she may have to Arts Council of Wales in respect of outstanding loans.

- 6.2 A Buyer may apply for Collectorplan loans to buy one or more works on one occasion, or on different occasions and from any number of Collectorplan Members, provided the total amount owed to Arts Council of Wales never exceeds £5,000.
- 6.3 If the purchase price is more than the loan available the Buyer must pay any difference (between the purchase price and the Collectorplan loan) to the gallery at the time the purchase takes place
- 6.4 Single item purchases cannot be less than £50.
- 6.5 The Buyer must pay a minimum 10% deposit, direct to the gallery, on all loans. Where the purchase price exceeds that of the maximum loan available of £5,000, the minimum 10% deposit will apply on purchases up to £5,555. For purchases in excess of £5,555, section 6.3 will apply.

## **7. The Repayments**

- 7.1 The Collectorplan loan is repaid in monthly instalments by direct debit.
- 7.2 The maximum period for repayment of the Collectorplan loan is twelve months. The Buyer may choose to repay the loan over any number of months, providing they adhere to the above maximum periods for repayment.
- 7.3 The minimum monthly repayment is £10.

## **8. The Allocation**

- 8.1 Arts Council of Wales has a limited sum available for loans, hence it is necessary to earmark amounts of money to Members in terms of an Allocation.
- 8.2 Each Member is given an Allocation calculated by Arts Council of Wales.
- 8.3 A Member will be notified of its Allocation annually, which may be adjusted in the light of demands for loans from purchases from the Member and the resources available to Arts Council of Wales for use as loans.
- 8.4 Arts Council of Wales hopes to be able to support loans in excess of the Allocation to a particular Member where demand proves greater than anticipated, but this will always depend on the balance of demand from all galleries and pressures on the resources of Arts Council of Wales.
- 8.5 If, from time to time, pressures on the resources of Arts Council of Wales make it necessary to restrict the support for loans even within a particular Member's Allocation, the Member will be informed of the position by the Coordinator (Collectorplan).

## 9. Charges

- 9.1 All Members are charged according to their usage of Collectorplan at the rate of 4% of the value of each loan.
- 9.2 The charge will be invoiced four times each year on 1 January, 1 April, 1 July and 1 October and will be calculated on the value of loans during the preceding three month period.
- 9.3 The invoice will normally be sent to the Member with their next credit statement, in which case the charge will have been deducted from the amount due in respect of the value of the loan(s) on that occasion. Where, however, no payment is due to the Member within a reasonable period after the raising of the charges invoice, the invoice will be sent to the Member and the Member undertakes to settle it within 14 days.
- 9.4 The charge set out in condition 9.1 is to be borne by the Member, and must not, under any circumstances, be passed on to the artist. This would be directly against the spirit and regulations governing the scheme. Contravention of this condition would result in the immediate withdrawal of membership from the Member.
- 9.5 In all cases the cash price and the credit price of a work offered for sale by a Member must be identical.

## 10. The Member and the Buyer – completing a loan agreement application

- 10.1 The Member must ensure that the Buyer has read “Important Note to the Buyer” and the “ Terms and Conditions” found on the Loan Agreement form.
- 10.2 If, after reading, the Buyer wishes to proceed with the agreement, the **Member and the Buyer** complete the following sections of the Loan Agreement:
- the Buyer's details
  - Key Financial Information
  - Other Financial Information

*This can be done on the electronic version of the form and then printed, on printed versions of the electronic version or using the forms provided by Arts Council of Wales.*

- 10.3 The **Buyer** completes and signs the separate direct debit mandate. The **Member** fills in its name and address on the same mandate.
- 10.4 The **Member** then checks that the Buyer has correctly completed and signed his/her sections of both forms, and that all copies of both are legible. The Member then:
- Forwards the original copy to Arts Council of Wales, together with the main part of the direct debit mandate
  - May make a copy/copies for the Buyer to take and/or the Member to retain
- 10.5 Upon receipt, the whole of the completed Loan Agreement and direct debit forms are checked by the Accounts Assistant (Collectorplan) and Arts Council of Wales instigates a credit search. If this

proves satisfactory, the Agreement form is checked by the Authorising Officer, who then signs and dates it.

- 10.6 The Accounts Assistant will then arrange a payment by BACS to the Member's bank account and will also send a remittance advice direct to the Member.
- 10.7 The Accounts Assistant will forward the direct debit mandate to the Buyer's bank and will forward a signed copy of the Loan Agreement to the Buyer, within seven working days of the date of signing by the authorising officer. A copy will also be sent to the Member.
- 10.8 The Buyer must be in possession of their copy of the Loan Agreement before they can collect the work from the Member. It follows, therefore, that the Member must not release the work until Arts Council of Wales has completed the credit search and processed the application. If the work is released before completion of this process then Arts Council of Wales does not warrant (under any circumstances) to pay any sum to the Member or artist.
- 10.9 Finally, the Member forwards the agreed amount to the Artist within thirty days of the Member receiving its money from Arts Council of Wales and delivers up the works to the **Buyer** within 5 working days of payment of the amount of credit by Arts Council of Wales to the Member (Failure to comply with this condition could result in the Member's membership being terminated and the Member may be required to produce evidence of such payment to the Artist if so requested by Arts Council of Wales.)

## 11. Authorisations and Checks

- 11.1 When an application for a loan is received by Arts Council of Wales, the following checks are made:
  - i. that there remains sufficient money within the Member's allocation to issue the loan
  - ii. that the Buyer, if they have purchased before, will not exceed the overall limit of £5,000 on loans by taking out a further loan, and if the Buyer has had a previous loan and/or has a current loan, that the loan has been/is being repaid in accordance with the terms of the Loan Agreement
  - iii. an enquiry is made of a credit reference agency as to any known County Court Judgments or problems. Where a problem does arise as a result of the credit enquiry, Arts Council of Wales will write direct to the Buyer advising that it will not be possible to proceed with the application (the Member will also be sent a copy of the letter)
  - iv. where the loan is for £1,000 or more a reference may be asked for through the Buyer's bank
- 11.2 When all the checks have been completed by the Accounts Assistant the whole Loan Agreement form is checked and signed by the authorising officer.

The "authorising officer" shall normally be the Senior Finance Officer with day-to-day responsibility for the financial management of Collectorplan. In his or her absence, Loan Agreements shall be authorised by any one of the Head of Finance and Accounting Services,

another Finance Officer, the Portfolio Manager (with responsibility for Collectorplan) or by any member of the Senior Management Team.