

A CODE TO REGULATE LENDING FROM THE BURRELL COLLECTION BETWEEN THE TRUSTEES OF SIR WILLIAM BURRELL (“THE TRUSTEES”), GLASGOW CITY COUNCIL (“THE COUNCIL) AND CULTURE AND SPORT GLASGOW (OPERATING AS “GLASGOW LIFE AND GLASGOW MUSEUMS”) AS AGENT FOR THE COUNCIL

1. INTRODUCTION

- 1.1 This Code covers all loans of objects for exhibition both outgoing from and incoming to the Burrell Collection (“**the Collection**”) for any duration. It covers the entire range of loans from single objects to multiple objects. It does not apply to movements of objects from the Collection within the UK for conservation research or study purposes. (“**the Objects**”).
- 1.2 The Collection consists of around 9,000 items donated to the Council by Sir William and Lady Burrell in terms of the Memorandum of Agreement dated 30 March and 6 April 1944 between Sir William, Lady Burrell and the Glasgow Corporation (a statutory predecessor to the Council) (“**the 1944 Agreement**”). This is attached in **Appendix A**. The Collection is further augmented by the purchase of additional items in terms of the Trust Disposition and Settlement by Sir William Burrell dated 23 February 1953 and relative Codicils dated 2 March 1956, 25 April 1956 and 6 July 1956, all registered in the Books of Council and Session on 11 April 1958 (“**the Will**”). Sir William Burrell’s Will established the Sir William Burrell Trust, a registered Scottish Charity (SC010109) and is managed and administered by charity trustees (“**the Burrell Trustees**”). Culture and Sport Glasgow is a registered Scottish Charity (SC037844) (operating as “Glasgow Life” and referred to in the remainder of this Code by its trading name “**Glasgow Museums**” which it uses when providing museum services”). Glasgow Museums was appointed by the Council to manage services which include the management and operation of all objects and items on display or stored in museum premises on loan to a third party or on loan from a third party (“**the Council Collections**”) and which include the Collection on behalf of the Council. The Collection’s Agreement dated 30 March 2007 between the Council, Glasgow Museums and Culture and Sport Glasgow (Trading) Community Interest Company specifies Glasgow Museums’ rights and obligations in relation to the Council Collections. These include the lending, acquisition and disposal of items from the Council Collections. It requires Glasgow Museums to conform to all standard museological guidelines for museums, libraries and archives both in and outwith the UK. There is in particular the requirement that Glasgow’s existing accredited museums continue to comply with the Museum Accreditation Scheme and Government Indemnity Scheme under the National Heritage Act 1980.
- 1.3 The Burrell Collection (Lending and Borrowing) Scotland Bill was enacted by the Scottish Parliament on **[INSERT DATE]** 2013 and received Royal Assent on **[INSERT DATE]** 2013. The Burrell Collection (Lending and Borrowing) Scotland Act 2013 (“**the Act**”) granted power to the Council which enables it to lend any piece of the Collection to an accredited museum or public gallery (or gallery or museum with equivalent status) (“**the Borrower**”) whether or not the Borrower is located in Great Britain or abroad. It extended the lending powers granted to the Council under the 1944 Agreement and the Will. The Bill extended these restricted lending powers under Section 1 of the Act which provides the following:-

1. New powers to lend and borrow

- 1.1 In addition to any current powers contained in the Will and Agreement, Glasgow City Council may only with the written agreement of the Burrell Trustees:
- (a) lend any item which for the time being forms part of the Burrell Collection to a Borrower for such period as Glasgow City Council and the Burrell Trustees may determine; and

- (b) receive on loan from any other party items that do not form part of the Burrell Collection and display them, alongside items that do, for such periods as Glasgow City Council and the Burrell Trustees may determine.

1.2 Glasgow City Council must:

- (a) publish no later than fourteen days after this Act comes into force a code agreed with the Burrell Trustees setting out the basis upon which the powers conferred by this section are to be exercised; and
- (b) publish a revised code no later than fourteen days after any such revised code has been agreed with the Burrell Trustees.

1.3 Income held by the Burrell Trustees may be applied for the purpose of obtaining such reports and advice deemed by them to be of assistance in exercising any rights and responsibilities under the code referred to in subsection 1.2.

No loan can be made that overrides the intentions of the Act.

2. PURPOSE AND AIMS

2.1 The Trustees are concerned the loans when made take account of the following:-

- 2.1.1. Maintenance of the identity and integrity of the Collection as the creation of Sir William Burrell's knowledge and taste as a collector of works of art and historical significance.
- 2.1.2. The preservation and physical integrity of Object(s) proposed for loan or tours.
- 2.1.3. The security of Object(s) proposed for loan or tour.
- 2.1.4. The maintenance of indemnity or adequate insurance cover for Object(s) on loan or tour.
- 2.1.5. Impact on the character and balance of the public display at the Burrell Collection when Object(s) are removed for loan or tour.

2.2 The Council, Glasgow Museums and the Trustees when exercising any decision making powers undertake to act reasonably and subject to the provisions set out below within this code to do so with one of the recognised aims of:-

- 2.2.1. Furthering the knowledge, understanding and scholarship of the Collection;
- 2.2.2. Making the Collection more widely accessible (physically and intellectually) within the UK and throughout the World;
- 2.2.3. Increasing national and international co-operation in relation to the Collection by the exchange of material and exhibitions;
- 2.2.4. Enhancing the reputation of the Collection and its good standing nationally and internationally.

3. MANAGEMENT OF OUTWARD LOANS FROM THE COLLECTION

3.1 If Object(s) are removed from display for the purpose of lending or touring then they will be replaced whenever possible with Object(s) from storage at the Collection after

Glasgow Museums has consulted the Burrell Trustees on the appropriate replacement Object(s) as provided in Paragraph 3.4 below.

- 3.2 Object(s) shall not be on loan for a period longer than three years except where Object(s) are part of a tour where a longer period is required and the justification for the longer loan period will be explained in the Glasgow Museum's Collections Recommendation referred to in Paragraph 3.4 below. Any Object(s) that have been on loan will not, unless good reasons can be advanced which support the stated aims set out in Paragraph 2.2 above or there are exceptional circumstances, be considered for loan within five years from their return to the Collection.
- 3.3 Glasgow Museums require potential Borrowers to contact them as far as possible in advance but as an absolute minimum the formal request must be received by the Head of Museums at Glasgow Museums no less than 365 days before the exhibition is scheduled to open. Glasgow Museums refer matters to the Loans Panel and the process they follow before referral to the Trustees is set out in Appendix B. ("**the Glasgow Museum's Lending Policy**"). Glasgow Museums will consult the Trustees in accordance with the process set out in Paragraphs 3.4 to 3.6 below. The Trustees will respond confirming their agreement or refusal to loan an Object(s) within 56 days of the receipt of the documentation set out in Paragraph 3.4.1-3.4.5 below ("**the Documentation**") if the Trustees require to obtain an independent report from an expert. The Trustees shall confirm this decision within 30 days if an experts report is not required.
- 3.4 Glasgow Museums' Loan Panel, the Collections Meeting and the Head of Museums will approve any request for the loan of an Object(s) in accordance with the procedure set out in the Glasgow Museum's Lending Policy. (as attached in **Appendix B**). The Head of Museums will within fourteen days of such approval being given forward a request in writing to the Burrell Trustees to agree the loan of the Object(s) together with the Documentation:-
 - 3.4.1 Glasgow Museum's Collections Recommendation (as approved and recommended by the Head of Museums and attached as **Appendix C**)
 - 3.4.2 Borrower's Formal Loan Request. ("attached to the Glasgow Museum's Collection Recommendation")
 - 3.4.3 Curatorial Report. ("**Appendix D**")
 - 3.4.4 Conservation Assessment. ("**Appendix E**")
 - 3.4.5 Details of the proposed replacement for any Object(s) if the proposed loan is on display

The Trustees may request such additional information or clarification as is reasonably required to enable them to consider the loan of the Object(s) and Glasgow Museums will provide such information as soon as reasonably practicable. Any additional cost in providing this information will be borne by Glasgow Museums unless both parties agree to the contrary.

- 3.5 The Borrower is required to ensure:-
 - 3.5.1 The security arrangements and environmental conditions for the Object(s) meet those required by the Government Indemnity Scheme contained in **Appendix B** (as amended from time to time);
 - 3.5.2 The transport and packing of the Object(s) meets the standards required in the General Transport Conditions set out in the Government Indemnity Scheme contained in **Appendix B** (as amended from time to time).
 - 3.5.3 That either an indemnity is offered by the Government Indemnity Scheme for a UK Loan or an Indemnity from the Borrower's Government of an equivalent status if outwith the UK or commercial insurance shall be provided on "Value

as Agreed”, “All-Risks”, “Nail to Nail” cover as approved by the Council’s Insurance Brokers.

- 3.6 The Trustees will confirm their decision in writing within the timescales provided in Clause 3.3 on the receipt of the Documentation or within 30 days of the receipt of such additional information Glasgow Museums has undertaken to provide in accordance with Paragraph 3.4. Where the Burrell Trustees confirm their agreement to the request to lend an Object(s), Glasgow Museums shall confirm the decision to the Glasgow Life Board and advise the Borrower of the agreement in principal to loan the Object(s) to them. If the Trustees refuse a request to lend an Object(s), they will confirm in writing their detailed reasons which shall enable Glasgow Museums to either respond to their concerns so that a loan may be made as requested or where this is not possible provide a clear explanation to the Borrower as required by the Lending Policy.
- 3.7 The Borrower will be required by Glasgow Museums to meet the costs for the preparation of the Object(s), packing and installation costs, any courier requirement, to complete the Glasgow Museums’ Facilities Report(or equivalent standard of report) and required to provide further details of the insurance, transport and security arrangements for the loan. When curatorial, conservation and security checks are complete, the Glasgow Museums’ Facilities Report returned and display and insurance arrangements for the Object(s) agreed, Glasgow Museums will prepare a formal Loan Agreement setting out the responsibilities and obligations of the Borrower for the Object(s).These processes are more fully explained in the Glasgow Museum’s Lending Policy
- 3.8 The Loan Agreement will require the following acknowledgement for an Object(s) when it is on loan and on display:-
- Lent by Glasgow Life (Glasgow Museums) on behalf of Glasgow City Council: from the Burrell Collection with the approval of the Burrell Trustees ”
- 3.9 Glasgow Museums will, within 14 days of a request by the Trustees, forward to the Trustees a copy of the Loan Agreement for any Object(s) which has been on loan from the Collection within 3 years of the Object(s) being on loan. Glasgow Museums will notify the Trustees if a loan is terminated, if the dates of an approved loan change and when an Object(s) is returned from loan to the Collection. Glasgow Museums will within eighty four days forward a completed Condition Report for the Object(s) to the Trustees.
- 3.10 If Glasgow Museums is of the view that the Trustees in refusing a Loan Panel Recommendation to loan an Object(s) either within or outwith Great Britain on one or more occasions have exercised their discretion unreasonably and failed to support a reasonable proposal by Glasgow Museums on behalf of the Council which would benefit the Collection and further the aims set out in Paragraph 2 then it may refer that refusal or a number of refusals, for the consideration of the Expert referred to in Paragraph 6 below, but the decision of the Trustees in relation to a loan outwith Great Britain is final and cannot be set aside by the Expert.

4. MANAGEMENT OF INWARD LOANS TO THE COLLECTION

- 4.1 The Council will seek to display objects borrowed from third parties at the building housing the Burrell Collection, alongside those items forming part of the permanent display of the Burrell Collection, only if the display of the loaned object or objects takes account of Paragraph 2.1.1 and is intended to achieve at least one of the aims set out in Paragraph 2.2 above.
- 4.2 The Head of Museums will provide a written report to the Trustees at least 183 days in advance of making a formal request to borrow an item or items for temporary display or exhibition at the Burrell Collection. Such report will provide details of the

intended manner, duration and location of the display or exhibition while on temporary loan to the Burrell Collection.

- 4.3 If the Trustees consider that the number of Object(s), the type or presentation of the proposed display or temporary exhibition of the Object(s) and/or the duration of the intended loan in of the Object(s) would conflict with the provisions of Paragraph 2.1.1 or fail to satisfy an aim set out in Paragraph 2.2 and would materially alter or change the character and balance of the public display of the Collection then the Trustees may refer the matter within 30 days of the receipt of the report referred to in Paragraph 4.2 to the Expert referred to in Paragraph 6 below.
- 4.4 Any Object or temporary exhibition of Object(s) will be placed in an area which would be physically separate from other items in the Collection and appear as a distinct exhibition space or display. All signage and labelling within or leading to this distinct exhibition space or display and any labelling of the Object(s) would clearly identify the area and Object(s) as being on loan from a third party and belonging to the temporary exhibition or display.

5. IN CASE OF DAMAGE TO AN OBJECT(S)

- 5.1 Glasgow Museums requires in its Loan Agreement that any damage or loss to an Object(s) is reported immediately to the Head of Museums at Glasgow Museums. The Borrower is required to forward a written report, Condition Report and photographs showing the damage within 48 hours. The Borrower is required to cover the costs of inspection or removal of the Object(s). The cost of conservation work undertaken as a result of this damage will be charged to the Borrower together with any depreciation in value.
- 5.2 Glasgow Museums is entitled to conduct a claim against the Borrower in accordance with the Loan Agreement for any damage caused to an Object(s) and has full discretion in the conduct of proceedings or settlement of any claim.
- 5.3 Where an item is damaged beyond repair or lost, Glasgow Museums shall notify the Trustees immediately in writing and shall thereafter consult with the Trustees on a suitable replacement item for such Object(s). Any sums paid to Glasgow Museums or the Council in relation to the conduct of proceedings or settlement for a claim for damage to an Object(s) will be held in a separate account earmarked for the benefit of the Burrell Collection. Glasgow Museums will consult with the Trustees on a suitable replacement item or items and shall only purchase a replacement item or items approved in writing by the Trustees. The Trustees shall be entitled to instruct at their own expense an independent purchasing expert's report on the suitability of a proposed replacement object or objects for the Burrell Collection in accordance with the purchasing procedures stipulated in terms of the Will. The Trustees shall thereafter advise Glasgow Museums within 58 days of Glasgow Museum's request to purchase an object or objects whether they agree with such request or not. The Trustees shall confirm their decision within 30 days if an experts report is not required. The Council shall be required to purchase a suitable replacement item or items for the Burrell Collection with the funds held in the aforementioned separate account.

6. ARBITRATION

- 6.1 Matters may be referred by either Glasgow Museums or the Trustees in accordance with the provisions of Paragraphs 3.10 or 4.3 for determination other than a refusal by the Trustees to agree to a loan outwith Great Britain from the Burrell Collection where the matter may be referred for consideration only, to an Expert ("the Expert"), who shall be deemed to act as an expert and not an arbiter.
- 6.2 The Expert shall be selected by mutual agreement or, failing agreement within 14 days after request by one party to the other, shall be chosen at the request of either

party by the Director (or other Senior Executive deputising for or replacing the Director) at the time of the Victoria and Albert Museum or if the Director of the Victoria and Albert Museum confirms it is not his area of expertise he shall identify a Director of a similar organisation with the required knowledge to make the recommendation who shall be requested to choose a suitably qualified and experienced Expert for the dispute in question.

- 6.3 Within 14 days after the Expert has accepted the appointment, each of the parties shall submit to the Expert a written report on the dispute.
- 6.4 Following the submission of the reports in pursuance of Paragraph 6.3, both parties shall afford the Expert all information and assistance which the Expert requires to consider the dispute.
- 6.5 The Expert shall be instructed to deliver his/her determination, or considered view as appropriate, within 14 days after submission of the written reports or all other information or assistance required by the Expert pursuant to Paragraph 6.4, whichever is later.
- 6.6 Save in the case of manifest error, the decision of the Expert shall be final and binding and not subject to appeal for any referral made by either Glasgow Museums or the Trustees pursuant to Paragraph 4.3 for an Inward Loan and for any referral for an outward loan of any Object(s) within Great Britain pursuant to Paragraph 3.10 except where the Trustees refer matters to arbitration in accordance with Clause 6.10 below.
- 6.7 In relation to a decision by the Trustees to refuse to approve an application by Glasgow Museums to lend an Object(s) to travel outwith Great Britain under Paragraph 3.10, while the Expert may review the decision by the Trustees to refuse such a loan, the decision of the Trustees shall be final and binding, even where the Expert has formed the view that such a loan would be appropriate on the basis of the facts and documentation presented to the Trustees by Glasgow Museums.
- 6.8 The Expert shall have the same powers to require any party to produce any documents or information to him and the other party as an arbiter; and each party shall in any event supply to him/her all such information held by that party or to that party's order which is material to the matter to be resolved and which it could be required to produce on discovery.
- 6.9 The fees of the Expert shall be borne by the parties as follows:-
 - 6.9.1 Where the matter is referred to the Expert by either Glasgow Museums or the Trustees for a loan of an Object(s) in accordance with Paragraph 4.3 and the Expert decides the loan should proceed as recommended by Glasgow Museums, then the Trustees shall make payment of the Expert's fees. If the Expert decides the loan should not be made, then Glasgow Museums shall make payment of the Expert's fees.
 - 6.9.2 Where the matter is referred to the Expert by the Trustees or Glasgow Museums for a loan of an Object(s) either within or outwith Great Britain in accordance with Paragraph 3.10 irrespective of the Expert's decision on whether the loan should be made or not, Glasgow Museums shall make payment of the Expert's fees.
 - 6.9.3 Where a decision is referred to arbitration in accordance with Paragraph 6.10, the expenses for the reference to the Expert and the subsequent arbitration shall be referred to the Sheriff for a decision on the appropriate apportionment of the expenses.

- 6.10 If the Trustees disagree with a decision by the Expert in relation to an application by Glasgow Museums to lend an Object(s) within Great Britain, then they shall be entitled to refer the matter to the Sheriff of Glasgow and Strathkelvin in accordance with the provisions set out in the 1944 Agreement.
- 6.11. Glasgow Museums and the Trustees will bear all of their own costs for preparation of their respective cases in relation to all references to the Expert or to arbitration in accordance with the 1944 Agreement.

7. REVIEW OF THE CODE

- 7.1 This Code was approved by the Council, Glasgow Museums and the Trustees on **[INSERT DATE]** 2013 and will be reviewed within eighty-four days of the last day of any tour of Object(s) from the Collection abroad or 31 December 2020, whichever date is earlier.
- 7.2 Glasgow Museums and the Trustees may review the Code and in particular the need for the process set out at Paragraph 3.4 to apply for the loan of all Object(s) in the Collection within Great Britain at any time after the implementation of this Code but in any event not later than stated in Clause 7.1 above. They may identify a restricted list of Object(s) or agreed criteria where the Trustees require the process at Paragraph 3.4 to be followed.

COPIES OF ANNEXES ARE AVAILABLE ON REQUEST FROM THE CLERKS TO THE BURRELL COLLECTION (LENDING AND BORROWING) (SCOTLAND) BILL COMMITTEE

APPENDIX A- THE 1944 AGREEMENT

APPENDIX B- GLASGOW MUSEUM'S LENDING POLICY

**APPENDIX C- GLASGOW MUSEUM'S COLLECTIONS RECOMMENDATION(
incorporating the Borrower's Formal Loan Request)**

APPENDIX D- CURATORIAL REPORT

APPENDIX E- CONSERVATION ASSESSMENT