

# **Art Collection Development Policy**

## **of the Constitutional Court Trust**

**Adopted 10/11/2021**

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The CCAC is a project of the Constitutional Court Trust | Trust No. 3836/95 | NPO No. NPO-004-997 | PBO No. 930003141  
Trustees: Justice SS Khampepe (Chairperson), Prof DI Bilchitz, Justice E Cameron, Justice C Jafta, Mr SP Kana, Prof MM Katz,  
Dr PO Mokoena, Justice NZ Mhlantla, Justice JV van der Westhuizen, Ms L Xaso, Justice ZLL Tshiqi

## **PART I: COLLECTION OWNERSHIP AND POLICY REVIEW**

### **1. Name of housing institution**

The Constitutional Court of South Africa.

### **2. Name of Constitutional Court Art Collection governing body**

The Constitutional Court Trust, a South African trust, settled by Arthur Chaskalson on 26 May 1995 and executed by the First Trustees between 17 and 26 May 1995 (the “**Governing Body**” or “**CCT**”).

### **3. Ownership and governance relating to the Constitutional Court Art Collection**

The Constitutional Court Art Collection (“**CCAC**”) comprises artworks which are movable (both within and around the Constitutional Court building) and artworks/works which are permanently integrated into the Constitutional Court of South (“**CCSA**”) building.

Ownership is accordingly bifurcated. Artworks/ works which are movable and not integrated within the Constitutional Court building (the “**Movable Artworks**”) are owned by the **CCT**.

For those works which are integrated into the Constitutional Court building as part of the original architectural concept and design of the building and/ or commissioned and designed for the purposes of permanent display in specific areas of the court building (the “**Integrated Artworks**”), ownership inures to the benefit of the department which legally owns the Constitutional Court building, which at the time of approval of this document is the Department of Public Works (the “**Dept of Public Works**”).

Together the Movable Artworks and the Integrated Artworks are referred to throughout this document as “**The Collection**”.

The Artworks Committee of the Constitutional Court Trust (the “**Artworks Committee**”) provides broad direction and oversees The Collection. The Artworks Committee reports back to the trustees of the Constitutional Court Trust (the “**CC Trustees**”), who ultimately act as the Governing Body of The Collection. Governance is amplified in Appendix 1.

The CCT acts in an advisory capacity to the CCSA to oversee and ensure appropriate conservation of The Collection as well as suitable and proper presentation of all Integrated Artworks. In so doing, The CCT, acts to protect and preserve the artistic integrity and heritage value of The Collection.

### **4. Funding for the Collection**

- a. The CCT is constrained to receive funding from entities that have little or no prospect of litigating before the Constitutional Court. This precludes funding from the South African

government, and South African foundations, corporations and individuals.

- b. However, anonymous donations can be made by any South African, or international person or entity through the Foundation for Society, Law and Art in South Africa, a US based 501(c)(3) nonprofit organisation established to support the CCAC in a fundraising and advisory capacity, and to manage an endowment fund established for the benefit of The Collection.
- c. Monetary support in favour of The Collection is accepted from former Constitutional Court Justices.
- d. Grants from foundations, governments and other entities outside of South Africa are crucial to enable the CCT to care for The Collection.
- e. The manager of CCT, supported by the CCAC curatorial team and the Artworks Committee, is responsible for fundraising for The Collection as well as the preparation of timely and proper funding reports.
- f. The CCT may approach the Dept of Public Works, through the Office of the Chief Justice, for government funding for the conservation of the Integrated Artworks.

## **5. Policy framework**

The Collections Development Policy consists of the following parts:

- Part I: Collection ownership and policy review
- Part II: Statement of purpose and collection overview
- Part III: Acquisitions policy
- Part IV: Disposals policy
- Appendix 1: Governance
- Appendix 2: Access and use
- Appendix 3: Procedures and documentation
- Appendix 4: Care and conservation
- Appendix 5: Model agreements

## **6. Date on which this policy was approved by Governing Body**

10/11/2021.

## **7. Policy review procedure**

The Collections Development Policy will be published and reviewed from time to time, but at least once every five (5) years.

## **8. Period at which this policy is due for review**

November 2026.

## **9. Legal and industry**

### **9.1 Legislation and notifications of any policy changes**

Constitution Hill, including the CCSA building, was declared a National Heritage Site in *Government Gazette* No. 40673, 10 March 2017. As such, the regulations stipulated in the *National Heritage Resources Act*, No. 25 of 1999 are applicable to the Integrated Artworks of The Collection.

The Department of Public Works and the South African Heritage Resources Agency will accordingly be notified of any changes to The Collections Development Policy, and the implications of any such changes for the future of The Collection, especially the Integrated Artworks.

The *Copyright Act No. 98 of 1978* (as amended) applies to *inter alia*, paintings, sculptures, drawings, engravings and photographs; works of architecture, and works of craftsmanship. The CCT must employ policy and procedure to ensure the rights of artists are respected and adhered to. Copyright is amplified in Appendix 2, *Access and use, Copyright and reproduction requests*.

Cognisance must also be taken of other legislation applicable to The Collection.<sup>1</sup>

## **9.2 Minimum standards and professional best-practice**

Efforts should be made to comply with museum industry best-practice as contained in the ICOM *Code of Ethics for Museums* and the South African Museums Association *Professional Standards and Transformation Indicators*.

The CCT as Governing Body should subscribe to professional associations that set out and maintain professional standards and networks, e.g. the South African Museums Association (“SAMA”) and the Visual Arts Network of South Africa (“VANSAS”).

## **PART II: STATEMENT OF PURPOSE AND COLLECTION OVERVIEW**

### **10. Statement of purpose by the Constitutional Court Trustees**

Pursuant to the Objects of the CCT to promote human rights, the rule of law, constitutionalism and judicial independence through non-judicial activities both in the RSA and African region (the “Objects”),<sup>2</sup> the purpose of the CCT, through its Artworks Committee, is to care for, display and develop The Collection to promote the Objects.

### **11. Existing collections, including the subjects or themes and the periods of time and /or geographic areas to which the collections relate**

#### **11.1 The subject/ theme of The Collection**

Consistent with the purpose of the CCT, the Collection is intended to bring together a diverse

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<sup>1</sup> The legal framework in which museums operate is set out in *Professional Standards and Transformation Indicators*, compiled by the South African Museums Association. See: <https://samuseums.co.za/media/attachments/2020/07/27/sama-prof-standards-transform-indicsee-email.pdf> (last accessed: 12/04/21)

<sup>2</sup> See Resolution of the Trustees of the Constitutional Court Trust passed at Johannesburg on the 26<sup>th</sup> day of February 2003.

range of artworks and artists that promote constitutional democracy and the fundamental values of South Africa's Constitution: dignity, equality, and freedom for all who reside in South Africa. The Collection represents the ideals of South Africa's Constitution, also serving as a reminder of the past and the work that remains. By including artworks from as many of South Africa's diverse cultural traditions as possible, The Collection aims to make any litigant before the Court or member of the public feel as comfortable as possible in the Court building.

### **11.2 The principal constituent sub-collections are:**

- **Movable Artworks:** movable works that were donated or acquired for display within the environment of the Constitutional Court from 1995 onwards, first held in the temporary offices of the CCSA and moved to its new building in 2004. This collection continues to grow with the acquisition<sup>3</sup> of new works.
- **Integrated Artworks:** a vast majority of these works were conceptualised and commissioned to form part of the new CCSA building and its surroundings, whilst some works were later permanently attached to the building with the approval of the Artworks Committee and the CCSA.<sup>4</sup>

### **11.3 The period of time and/or geographical area to which collecting relates**

The Collection comprises artworks from the 20<sup>th</sup> to the 21<sup>st</sup> century, predominantly South African yet also including artworks from other countries globally. The Collection Policy leaves scope for extending the chronological or geographical range of collecting activity. The Collection, both its individual works and in its entirety, is read within the history and context of the Constitution, Constitutional Court building and its surrounding area more broadly.

## **12. Care and conservation of the Collection**

The care and conservation of The Collection is of critical importance to ensure the Collection is held for posterity. This matter is amplified in Appendix 4: *Care and conservation*.

## **PART III: COLLECTING POLICY**

### **13. Criteria governing artwork acquisitions**

The use of the term "acquisitions" must be understood in its generic sense, and in light of the standardised term's international recognition to encompass all legitimate methods of transfer of title to objects in the museum context. Importantly, it must also however be interpreted in the unique context in which the CCAC has been assembled historically, and in which it will continue to be assembled. That assemblage is born of the generous donations by artists, galleries and other benefactors as acts of solidarity with the values of the Constitution.

Consequently, use of the term "acquisitions", in this Policy and elsewhere in relation to The Collection, refers to all methods of transfer of title of an object to the CCT, and not solely to purchase. This means that it includes donations which account for most of the acquisitions within

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<sup>3</sup> See point 13 on the use of the term "acquisitions".

<sup>4</sup> Management of records and care relating to the Integrated Artworks are amplified in Appendix 1: *Governance*.

The Collection to date.

As such, The CCT Trustees, through the Artworks Committee, seek to add to The Collection primarily by donations or bequests from artists or third parties, or in exceptional circumstances, purchase, or commission of works which amplify the Objects in accordance with the criteria listed below:

a. Relevance to the CCAC

Strong preference is given to works from or relating to South Africa or the African region which promote the Objects and enhance the diversity of the existing Collection in terms of demographics of artists, subject-matter or artwork medium; alternatively artworks created by artists from outside of South Africa or the African region but whose works promote the Objects and complement The Collection's diversity.

Further relevant factors include quality, rarity, provenance and interpretive potential consistent with the Objects.

Other works will be acquired only where they accord with the spirit of the existing collection. By including works that reflect the full diversity of South African culture, the hope is that litigants and visitors from all walks of life will feel at home and welcome in the building.

b. The CCT's ability to exhibit, store and conserve the artwork

An evaluation of the requirements for display, storage and conservation must be made, as well as the sufficient availability of funding and staff (the latter may require the services of installers for external installations and external conservation expertise from time to time). Hence the needs of the existing collection must be weighed against its capacity for growth.

c. Condition of the artwork

Artworks in good and/or complete condition are preferred, however an object that is in poor and/or incomplete condition might in rare circumstances be considered if a better example is not known to be available and it fills a gap in the collection.

d. Complete and valid title

The CCT shall verify ownership by any and all appropriate means prior to accepting a gift or entering into a donation agreement or, in exceptional circumstances, purchasing a work. The transferor of an object should normally be required to supply all records and other contextual information pertaining to the object. The CCT will not acquire objects when lawful ownership cannot be substantiated to the satisfaction of the CCT.

e. Legality

- i. The Artworks Committee will not recommend that The Governing Body acquire any object or specimen unless it is satisfied that the object or specimen has not been acquired in, or exported from, its country of origin (or any intermediate country in which it may have been legally owned) in violation of that country's laws (for the purposes of this paragraph 'country of origin' includes South Africa).
- ii. In accordance with the provisions of the UNESCO 1970 *Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property*, to which SA lodged its instrument of acceptance on 18 December 2003, and the *National Heritage Resources Act (1999)*, the Artworks Committee will, on behalf of The Governing Body, reject any items that have been

- illicitly traded.<sup>5</sup>
- iii. The Artworks Committee will not acquire geological or archaeological materials which have been collected, sold, or transferred in contravention of local, national, regional, international law or treaty.<sup>6</sup>
  - iv. The Artworks Committee will not acquire works which are made of, or include in their composition, parts of or derivatives of flora and fauna which are listed in any of the appendices of the CITES Convention and which have been traded in violation of the CITES Convention. The Artworks Committee will ensure that it documents the origin of any flora or fauna protected by the CITES Convention and which may form a part of The Collection. Where necessary, the Artworks Committee will undertake appropriate due diligence searches to establish such origin.
  - v. The Artworks Committee does not hold or intend to acquire any human remains or biological material.
  - vi. Any exceptions to clauses i–v above will only be because the Artworks Committee, on behalf of The Governing Body, is either: recommending acquiring an item that lacks secure ownership history but in the best judgment of experts in the field concerned has not been illicitly traded; or acting with the permission of authorities with the requisite jurisdiction in the country of origin; or in possession of reliable documentary evidence that the item was exported from its country of origin before 1970. In these cases, the Artworks Committee, on behalf of The Governing Body, will be open and transparent in the way it makes such decisions.

f. Spoliation

Given the subject/ theme of The Collection (as amplified in paragraph 11.1 above) as well as the period of time and/or geographical area to which The Collection relates (as amplified in paragraph 11.3 above) it is not anticipated that Spoliation will be an issue of major concern as it is for many other museums and institutions holding works which do not touch on the same themes or time/ geographical areas as The Collection. Nevertheless, given the significance of this issue, and taking account of the possibility of further loans, gifts or bequests of artworks whose provenance may invoke enhanced risks of claims of looting, The Artworks Committee will, on behalf of the Governing Body, adhere to the Statement of Principles for UK Museums' Provenance Research for the Period 1933-1945<sup>7</sup> in assessing any works within The Collection or works that may be considered for inclusion within The Collection (whether by gift, bequest, purchase or commission).

g. The repatriation and restitution of objects and human remains

Given the subject/ theme of The Collection (as amplified in paragraph 11.1 above) as well as the

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<sup>5</sup> The *UNESCO Convention for the Safeguarding of the Intangible Cultural Heritage*, 2003 may also have applicability.

<sup>6</sup> Applicable local legislation include the *National Environmental Management Act*, 107 of 1998 as amended; *National Environmental Management: Biodiversity Act*, 10 of 2004; *National Environmental Management: Protected Areas Act*, 57 of 2003 as amended and regulations; *World Heritage Convention Act*, 49 of 1999. International instruments include the *Convention on International Trade in Endangered Species of Wild Fauna and Flora*, 1993; *UN Convention on Biological Diversity*, 1992; and the *UNESCO Convention on the Protection of the Underwater Cultural Heritage*, 2001.

<sup>7</sup> Especially paragraphs 4 and 5 (relating to procedures for acquisitions and loans) and 21 (relating to due diligence undertaken to verify ownership prior to loans/ transfers/ gifts etc).

period of time and/or geographical area to which The Collection relates (as amplified in paragraph 11.3 above) it is not anticipated that restitution/repatriation of objects or human remains will be a major issue of concern for the CCT as it is for many other museums and institutions holding works which do not touch on the same themes or time/ geographical areas as The Collection. Nevertheless, given the serious concerns that have been raised by communities within countries of origin/ the diaspora relating to these objects and remains, the Artworks Committee undertakes to ensure that should it become apparent that an object or human remain within The Collection becomes a subject of interest to a community forcibly dispossessed of the object or human remain, alternatively a claim for repatriation/restitution of the object or human remain, The Artworks Committee will have regard to the *National Heritage Resources Act (1999)*<sup>8</sup> as well as the principles articulated in the *ICOM Code of Ethics for Museums*, more particularly articles 6.2 and 6.3 dealing with the return/restitution of cultural property as well as any internationally agreed upon principles relating to repatriation and restitution which may be crafted in the years to come.

#### h. Disqualifying criteria

The Artworks Committee has to date developed the following disqualifying criteria for artworks which will not be accepted into The Collection.

- i. Not allowing depictions of judges, past or current, especially individual representations, as the CCAC is not a mechanism intended for immortalising judges.
- ii. Not allowing the depiction of specifiable contemporary matters that might still be subject to litigation before the bench, safeguarding the court from imputations of conflict of interests or the appearance of bias.
- iii. Not allowing the uncritical depiction of political figures with a history of human rights violations or leaders who have been convicted of unlawful actions, who have flouted the rule of law, human rights and the values enshrined in the Constitution of South Africa.

### 14. Model donation agreement

- a. Except when agreed otherwise with a donor/ donor institution, the Artworks Committee's standardised donation agreement (see Appendix 5: *Model agreements*) will be used for any gifts to the CCT.

### 15. Artwork loans

- a. Incoming loans
  - i. Artworks from external lenders may be accepted under a loan agreement, on long or short term, taking into account all of the cost implications of caring for the artwork(s) through conservation, transport, insurance etc. If a loan to the CCT is being proposed by an external lender, contributions and requirements to this end from the lender should be considered. There is presumption against accepting proposed loans if it would place undue strain on the resources of the CCT.

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<sup>8</sup> Especially section 41 dealing with restitution of heritage objects.



- ii. From time to time, in order to present exhibits or for other purposes, the CCT may request and acquire the loan of objects from other institutions or from private collectors under mutually agreed terms. The CCT may also accept the loan or deposit of an object while it determines whether to acquire the item. These items may not be accessioned by the Trust, but are to receive the same benefits of care as if the items were accessioned.
- iii. A loans register for all incoming loans is to be kept (see Appendix 3, *Procedures and documentation*).
- iv. The criteria governing artwork acquisitions, noted above, is to be applied by the Artworks Committee when considering the validity, quality and relevance of the proposed loan.

b. Outgoing loans

Outgoing loans issues are amplified in Appendix 2, *Access and use*.

c. Model loan agreements and reproduction rights agreement

- i. Except when agreed otherwise with a transferor/ loaning institution, the Artworks Committee's standardised loans agreements for both incoming and outgoing loans (see Appendix 5, *Model Agreements*) will be used for incoming and outgoing loans.
- ii. Execution of a model loan agreement (whether incoming or outgoing) will be complemented by execution of the model reproduction rights agreement when appropriate (see Appendix 5, *Model agreements*).

## 16. Acquisitions not covered by the policy

Acquisitions outside the current stated policy will only be made in very exceptional circumstances, and then only after proper consideration by the Governing Body, having regard to the collection policies of other museums in South Africa.<sup>9</sup>

## 17. Management of archives

As the CCT holds archives, including photographs and printed ephemera, its Governing Body may be guided by the *National Archives of South Africa Act*, 43 of 1996 as well as best practices in the archival and records management sector.<sup>10</sup>

Archival management is amplified in Appendix 3, *Procedures and documentation*.

## PART IV: DISPOSALS POLICY

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<sup>9</sup> The CCT, through The Artworks Committee, will take account of the collecting policies of South African museums and other South African organisations collecting in related areas and/or subject fields. It will consult with these organisations where conflicts of interest may arise or to define areas of specialisms, in order to avoid unnecessary duplication and waste of resources.

<sup>10</sup> The *Code of Practice on Archives for Museums and Galleries in the United Kingdom* (3rd ed., 2002) may also be considered.

## 18. Disposal procedures

In pursuit of the Objects, the CCT aims to preserve and exhibit The Collection to the public. There is accordingly a strong presumption against the disposal of any items in The Collection.

Disposal procedure and documentation is to be conducted in accordance with the provisions set out in Appendix 3, *Procedures and Documentation*.

## 19. Disposal guiding principles

- a. The Artworks Committee will, on behalf of the Governing Body, ensure that a disposal process is carried out openly and transparently.
- b. The Artworks Committee accepts the principle that there must be sound curatorial reasons for disposal before consideration is given to the disposal of any items in the Collection, in accordance with the criteria governing artwork additions and disposal.
- c. The Artworks Committee will confirm that the CCT is legally free to dispose of an item taking account of any agreements on disposal made with any donors before a decision is taken on disposal.
- d. When disposal of a work within The Collection is considered, the Artworks Committee will establish if it was acquired with the assistance of external funding. In such instances, any conditions attached to the original grant will be followed.
- e. Written records will be kept to provide a summary of why the object was de-accessioned, in accordance with the *Procedures and documentation* policy. The records will document the decision process, identifying how the de-accession criteria were applied.

## 20. Disposal criteria

Artworks may be considered for deaccessioning based only on the following criteria:

- a. The relevance or appropriateness of the artwork.
- b. The condition of the artwork: if an object has deteriorated or has been damaged so badly as to no longer have value and is beyond reasonable expectation of preservation.
- c. The artwork was lost or stolen: in cases of theft or similar loss, the object may be deaccessioned.
- d. The authenticity of the artwork: artworks discovered to be reproductions or not authentic as represented may be considered for deaccessioning.
- e. The CCT's ability to care for and conserve the object: if the CCT's inability to properly care for an object threatens to adversely affect the condition of the artwork, it may be considered for deaccessioning.
- f. Health and safety considerations may also give rise to a decision for deaccession of an artwork.
- g. The CCT will not undertake disposal motivated principally by enrichment that does not serve the best interests of The Collection as per the statement of purpose.
- h. External expert advice may be obtained and the views of stakeholders such as donors, researchers, local and source communities, and others served by the Collection may also be sought.

## 21. Disposal by gift or sale and the use of proceeds of sale

Once a decision to dispose of an intact work within the Collection has been taken, priority will be given to retaining its public accessibility status, unless it is to be destroyed. It will therefore be offered in the first instance, by gift or sale, directly to museums likely to be interested in its acquisition. If no expressions of interest have been received, the CCT may consider disposing of the work to other interested individuals and organisations giving priority to organisations in the public domain and operating in the public benefit.

Any monies received by the Governing Body from the disposal of items will be applied for the benefit of the Collection, i.e. improvements relating to the care of the Collection, or for the purchase or commission of further acquisitions. Any monies received in compensation for the damage, loss or destruction of items, insured or otherwise, will be applied in the same way.

## **22. Disposal by exchange**

The CCT will only dispose of items by exchange subject to the approval of the donor and/or artist. In the case of neither the donor or artist being reachable, disposal by exchange may be conducted subject to the recommendation of the Artworks Committee to be approved by the Governing Body.

## **Appendix 1 Governance**

### **1. Artworks Committee**

#### a. Status

The Artworks Committee is a sub-committee of, and accountable to the CCT. The Committee must also work in consultation with the judges of the Constitutional Court.

#### b. Composition

The Committee is chaired by a judge of the Constitutional Court (nominated by the Chief Justice) and will include at least one other judge of the Constitutional Court nominated by the Chief Justice. In addition, it will include one trustee of the CCT nominated by the CCT; the Manager of the CCT; the Curator/s of the Collection; and a maximum of four experts to be approved by the CCT. The Curator/s or curatorial team of the Collection shall serve as secretary to the committee preparing agendas and keeping minutes.

The Artworks Committee has the right to co-opt additional members with the approval of the CCT.

#### c. Term of office

The term of office of members of the committee will be four years. Members will be eligible to serve for an additional four-year period thereafter.

#### d. Emeritus status

There is a category of committee member, a member emeritus, who is nominated and elected by the artworks committee in recognition of having served the committee with distinction.<sup>11</sup>

To be eligible to be a member emeritus, a person must be a current or former member of the Artworks Committee who has served on the Committee for at least eight years, must have made significant contributions, engaging in major volunteer or advocacy activities in his or her service on the committee, and must have completed the term(s) for which he or she was appointed.

A member emeritus shall be entitled to receive all written notices and information ordinarily provided to the Artworks Committee, to attend all committee meetings, and encouraged to attend all other events conducted by the organisation. A member emeritus shall not be subject to any attendance policy counted in determining if a quorum is present at a meeting, entitled to hold office, or entitled to vote at any committee meeting.

### **2. Functions of the committee**

The Artworks Committee will provide broad direction and oversight in relation to the Collection.

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<sup>11</sup> As based on a decision by the Artworks Committee on 11/11/2020.

It shall advise the CCT on the acquisition, de-accessioning, maintenance and preservation of artworks. The Committee shall advise on matters pertaining to the representation of the CCSA, its work and the Constitution, in line with South Africa's constitutional values. The Committee shall recommend an annual budget for approval by the Trust. It shall also undertake such fundraising activities as is necessary, and offer fundraising advice in support of the Collection as is requested by the CCT Manager. The Committee reports both to the Constitutional Court Trust and to the Chief Justice.

### **3. Frequency of meetings**

The Artworks Committee must meet at least three times a year, preferably every quarter.

### **4. Acquisitions Sub-Committee**

The Acquisitions Committee is a sub-committee and is accountable to the Artworks Committee.

The Committee is composed of the four external members who are part of the Artworks Committee and are therefore bound by the Committee policies. The Committee sits to deliberate and decide on artworks proposed for accession into the Collection.

The Acquisitions Committee, being art sector practitioners, will provide expertise in the selection of artworks for the Collection. It provides aesthetic guidance to the Trust, and ordinarily the Trust shall accept this guidance. The Trust may however not accept the advice of the Sub-Committee where financial, administrative or other considerations outweigh the desirability of accepting the advice of the Sub-Committee.

The Acquisitions Committee must meet at least 3 times a year to discuss acquisitions submitted for approval. These meetings can be conducted online via email and or Skype call, as and when a need arises.

### **5. Curatorial staff**

The Curator/s or Curatorial Staff of the Collection is appointed by the CCT in consultation with the Artworks Committee and is responsible for implementing the management, conservation, preservation, maintenance and development of the Collection. The Curator/s will serve as secretary to the Artworks Committee and convene its meetings and prepare minutes. The Curator/s will contribute to fund-raising activities under the direction of the CCT Manager and guidance of the Artworks Committee. The Curator/s will also report to the Artworks Committee and ultimately to the Constitutional Court Trust. The Curator/s will also undertake all tasks set out in his/her job description and any other task that may be reasonably incidental to his/her work as a Curator.

### **6. Workplace policy**

HR related matters for employed staff are contained in the CCT's workplace policy.

## **Appendix 2**

### **Access and use**

#### **1. Exhibitions and signage**

- a. Portions of the Collection should be exhibited in spaces which are open to the public, i.e. the court foyer and exhibition gallery.
- b. The Collection also serves the staff of the Constitutional Court and as such artworks are also to be exhibited in the building's administrative and library (i.e. private) areas.
- c. Exhibition rotations should be conducted at least annually to ensure a variety of artworks are displayed in both the public and private areas of the court.
- d. Curatorial and conservation considerations should guide the placement of artworks, but also the workings of the CCSA. As far as possible the personal preferences of CCSA staff members should be considered when placing artworks in the private areas of the Court.
- e. Artworks must be appropriately contextualised through exhibition signage, especially but not limited to those on public display, in aid of the full appreciation and understanding of the Collection.
- f. Artists should be informed, as far as is reasonably possible, when their works are placed on public display.
- g. The Constitutional Court is divided into public and non-public areas. The public will only ordinarily have access to those artworks displayed in the public areas of the Court building. Given its role, it is recorded that the Constitutional Court's work and activities will take priority over those of the Collection and public access may be refused to parts of the Collection due to these circumstances.
- h. The acceptance of temporary exhibitions consisting of works outside of the Collection should be approached with caution. The aims of the exhibition should not conflict with the Court's ethos and there should be minimal disruption of the display of the Collection.

#### **2. Loans from the Collection**

- a. In order to make the Collection widely available there may be instances where certain works are loaned to other institutions. The CCT may, upon the advice of the Artworks Committee, lend artworks which form part of its Collection for specific exhibitions or for study purposes to other institutions and organisations which meet the requirements for care and safety of the loaned object.
- b. It may also be that exhibitions are curated in-house by the Curator/s and loaned as an "exhibition" to other venues.
- c. All loans are to be covered by a written loan contract approved by the CCT, pursuant to the *Procedures and documentation* policy in Appendix 3, and Model agreements as per Appendix 5.
- d. The requirements for all loans are as follows:
  - i. All loans must be covered by written loan agreements, fully insured by the borrowing organisation with a copy of certificate of insurance.
  - ii. Loan agreements will specify a finite loan period.
  - iii. All loans will be reviewed annually.
  - iv. No artwork may be used, borrowed or loaned for personal gain or convenience by

- an individual.
- v. The Curator/s will ensure adequate risk management in regard to outgoing loans before approval and during the loan period.

### **3. Tours and tour guide**

- a. Regular Art & Justice tours of the Collection should be presented by the curatorial team in order to expand the reach and build on the profile of the CCAC. These tours may include the private areas of the Court building on weekends and public holidays.
- b. Tours that venture into the private areas of the court should be presented with care in order not to disturb the workings of the CCSA. The private areas should generally only be visited over weekends and public holidays, and be limited to a small controlled group, under supervision of the curatorial team.
- c. Special educational, corporate and other group tours should be accommodated as far as possible.
- d. Tours should be informed by a current Art & Justice tour guide, as well as exhibition signage, in order to ensure the accuracy and completeness of information conveyed.

### **4. Events**

- a. Exhibition openings and other events related to the Collection are valuable in order to build the profile of the CCAC and to further engage the public, in line with the Objects of the CCT. Events, either physically or virtually or a combination of the two, should be planned and hosted by the CCT, in line with its objectives.
- b. Events need to be endorsed by the Artworks Committee and approved by the CCSA's Visitors Committee in advance, in consultation with CCSA management.

### **5. Research, interviews and publications**

- a. Research about the Collection should be conducted by the curatorial team in order to inform the presentation and preservation (See Appendix 4, *Care and conservation*) of the CCAC.
- b. Interviews with artists and other involved parties may be conducted in order to gather information pertaining to the Collection (see Appendix 3, *Procedures and documentation*).
- c. Publications about the Collection, documenting and contextualising the CCAC, such as the *Art & Justice* monograph series published by the CCT, should be expanded on as is feasible; other publishing initiatives may also be pursued.
- d. Requests made in advance by bona fide researchers to see particular objects in the Collection will be granted subject to consultation with the Curator/s, and where appropriate with the CCT manager and in exceptional cases the chair of the Committee.

### **6. Website and public facing CMS**

- a. The curatorial team must keep updated the Collection website (located at [ccac.concourtrust.org.za](http://ccac.concourtrust.org.za)) as the primary online point of contact for the CCAC's

audience.

- b. In order to advance the public accessibility of the Collection, electronic and off-site access to the Collection should be made available through a public facing component to a collection management system (CMS).

## **7. Social media**

- a. An active social media presence is important to promote the CCAC and engage with its audience.
- b. The Curator/s should keep updated the Collection's existing profiles on Instagram and Twitter, and may use other platforms to promote the CCAC.
- c. As far as possible, the Collection's stakeholders (artists, art donors, funders, the CCSA etc.) should be acknowledged about posts related to them, i.e. through tagging.
- d. The Collection's social media channels should not bring the Collection, the CCT nor the CCSA in disrepute. Accurate and professional posting is of utmost importance.
- e. In accordance with the CCSA's Twitter policy, the CCT may request the retweet of specific CCAC or CCT tweets from the CCSA's Media Committee.

## **8. Copyright and reproduction requests**

- a. As many of the Movable Artworks of the Collection were donated to the CCT, copyright most often vests with the artist or artist estate. The CCT is obliged to ensure that the artist's rights are respected.
- b. Although photography for personal purposes is acceptable, professional photography of artworks and artwork exhibition spaces (i.e. the court foyer and exhibition gallery) need to be applied for and approved well in advance.
- c. No artworks of the Collection may be professionally photographed at close proximity or in such a way that the artwork fills the entire photo or video screen, nor may such capturing be published in any form, unless prior permission has been obtained. Artworks may be depicted as part of a background scene if they are not the primary focus point, provided approval was granted to professionally photograph the area where artworks are exhibited.
- d. The Curator/s may assist in getting copyright clearance for the reproduction of CCAC artworks; the right holder(s) is to be determined on a case-to-case basis.
- e. The CCT's policy on copyright and permissions should harmonise with the CCSA's Visitors and Media policy guidelines.
- f. Cognisance should be taken of Constitution Hill Development Company's photo and video policy.
- g. Reproduction request policy and procedure, in accordance with the *Procedures and documentation* policy in Appendix 3, are to be made known on the CCAC website and elsewhere as appropriate.

## **9. Educational material**

- a. Educational materials to enable visitors to interact with the CCAC to forward education objectives should be developed as is feasible.



## **Appendix 3**

### **Procedures and documentation**

#### **1. Guiding principles**

- a. All consequential actions in relation to the management or status of the Collection should prompt a written record that is accessible on the CCT's shared cloud service, whether a document saved on the shared drive or an email trail that is saved to said shared drive.
- b. All records relating to a specific artwork should be saved to the artwork's folder on the PRO-CCAC shared drive. Documents relating to the CCAC more broadly should be saved to the relevant folder on this drive.

#### **2. Artworks register and audit**

- a. As the primary point of reference, all artworks forming part of the Collection are recorded on the "Masterlist", located on the PRO-CCAC shared drive. In time the Masterlist may be moved over to a centralised Collection Management System (CMS).
- b. All artworks in the Collection should be assigned a unique CCAC number, serving as an identifier as per the Masterlist.
- c. The Masterlist should contain all fundamental information on each artwork in the Collection, including its artist(s), date, medium, dimensions, edition and inscription, source, visual description, location, condition, treatment history and value. Additional information may also be recorded as required.
- d. A copy of the current Masterlist must be archived on a monthly basis.
- e. A comprehensive annual audit of the collection should be conducted to check the location and status of every listed work.

#### **3. Incoming loans register**

- a. An incoming loans register must be kept, as a separate part of the Masterlist, that notes all artwork loans to the CCT and all information fields as per the main artworks register of the CCAC, as well as information applicable to the loan (i.e. insurance status, loan conditions and loan period).

#### **4. File naming conventions**

- a. All documents on the PRO-CCAC drive must be named in accordance with the file naming conventions of the CCT.
- b. The essential information to be included in every file name is:  
DocumentTitle\_EssentialNotes\_InitialsOfAuthor\_DateLastEdited (in YYYYMMDD format).
- c. The file name must also be reflected in the footer in the case of a textual document.
- d. Documents must contain applicable titles and the date last updated or finalised.
- e. Expanded file naming conventions for different types and groups of files should be developed and followed.

#### **5. Style guide**

- a. The CCAC style guide should inform and reflect stylistic and other language use to ensure consistency across all channels of written communication.

## **6. Interview procedures and protocols**

- a. The protocols and procedures that should be followed in relation to CCAC interviews are located at PRO-CCAC>Interviews.
- b. The interview consent form is to be completed and signed by the interviewee and filed along with the accompanying interview documentation.

## **7. Reproduction requests**

- a. Reproduction requests should follow the policy and procedures as stipulated in the documents located in PRO-CCAC>Templates>Reproduction shared folder.

## **8. Artwork contracts and legal templates**

- a. All artwork donations and loans (both incoming and outgoing) need to be formalised contractually.
- b. Contractual templates for both artwork donations and loans (incoming and outgoing) should be developed and implemented (see Appendix 5, Model agreements).
- c. Signed contracts need to be saved in the artworks folder on the PRO-CCAC shared drive.

## **Appendix 4**

### **Care and conservation**

Given that the Collection is not displayed in ideal environmental conditions, artwork maintenance and risk management measures are to be employed to best ensure the preservation of the CCAC.

Health and safety policies and procedures as instituted by the CCSA facilities management are to be followed. Close cooperation with the facilities management team is required to encourage care of the Collection.

#### **1. Security and physical safety**

Measures to ensure the physical safety of artworks on display and in storage must be taken, including but not limited to:

- a. The continuation of applying lockable Ryman hangers to every 2D work on display and in storage;
- b. Applying metal detector strips to movable artworks to alert CCSA security to unauthorised moving of artworks;
- c. Strictly regulating access control to the Collection's storage facilities using a key safe;
- d. The continuation and expanded use of museum barriers to limit touching of artworks;
- e. The continued use of glass casings to protect delicate and valuable artworks;
- f. The use of lockable mechanisms for artworks that may easily be removed from public display;
- g. Active liaising with CCSA facilities, security and cleaning staff on an ongoing basis about matters pertaining to the Collection.
- h. Guidelines for external contractors on art handling to prevent the occurrence of damage or loss.

#### **2. Cleaning**

- a. Regular cleaning of artworks is crucial to the preservation (and presentation) of the Collection.
- b. The Curator/s must set up and see to the implementation of an art cleaning guide in collaboration with the CCSA cleaning staff, including annual cleaning workshops to inform the cleaning of art displays and robust sculptures.
- c. Specialised cleaning of delicate artworks must be conducted by or under supervision of the Curator/s, guided by *conservation memos* (as below).

#### **3. Environmental report**

An annual environmental report must be prepared, for presentation to the Artworks Committee, summarising and analysing the temperature, relative humidity, dew point, visible and UV light, and pest control status that should be recorded and monitored throughout the year (see *Storage and monitoring* below).

#### **4. Conservation treatments and skills training**

- a. Internal conservation of artworks forming part of the Collection is beneficial if sufficient

in-house skills, capacity and resources are available.

- b. Skills training for the Curator/s to conduct or oversee conservation work is recommended. Opportunities for same must be identified and motivated for by the curatorial team.
- c. Any damage to an artwork that cannot be tended to internally should be referred to a qualified conservator for conservation treatment as soon as possible.
- d. The restoration of artworks in the Collection should be to an historically correct appearance, based on careful research and the highest standards of restoration work.
- e. The Curator/s is responsible for close facilitation and cooperation with the appointed conservator to ensure that the necessary requirements are met.
- f. The artwork's artist must be informed and consulted throughout the process of conservation treatment.

## **5. Condition reports**

- a. As part of the annual audit of artworks (see *Artworks register and audit* in Appendix 3, *Procedures and documentation*) the condition of each artwork in the Collection (whether Movable or Integrated) must be closely checked and recorded as per the established condition ratings and description fields in the Masterlist.
- b. Written condition reports are prompted whenever an artwork undergoes a substantial change in condition rating, such as in the event of damage or repair. Condition reports must be filed in the relevant artwork's folder in PRO-CCAC.
- c. Condition reports must be completed for all incoming artwork donations, and loans whether incoming or outgoing.
- d. Condition reports from external conservators, detailing any conservation work done, should be stated as a requirement of any contracted work.

## **6. Conservation memos and templates**

The development of memos to guide the care and conservation of the Collection should be conducted by the Curator/s. These include the conservation of the various artwork mediums in the CCAC, their framing and on the proper use of equipment, materials and techniques in relation to the care of the Collection.

## **7. Storage and monitoring**

- a. In order to preserve the collection appropriate storage space is required for all of the artworks in its Collection, including plan drawers, shelving, racks for 2D works, roll racks for textiles, tables and other specialised methods of artwork storage. Guidelines to prevent excessive light entering storage rooms must be followed.
- b. Daily environmental checking of storage rooms, bi-weekly checking of light levels throughout the Court and monthly downloading of all environmental data must be conducted.
- c. A schedule for vacuuming must be followed.

## **8. Insurance**

- a. An annual review of the artworks that contractually require insurance, such as in the case of loan or donation agreements, must be conducted.
- b. The CCT is not able to insure every artwork in the Collection, but should make every

effort in caring for the Collection in order to prevent the occurrence of damage, beyond unavoidable degradation over time.

## **Appendix 5**

### **Model agreements**

As far as possible, artworks donation agreements, reproduction rights agreements, and/or artwork loan agreements entered into between the CCT Trustees and donors, alternatively between the CCT Trustees and lenders or borrowers, should be based upon model agreements which have been specifically developed for such purposes. The model agreements may be updated from time to time to reflect changes in law/ circumstances provided that any such amendments are consistent with this Collections Development Policy document unless the Collections Development Policy itself is no longer compatible with the law in the particular circumstances of the proposed amendment, in which case a review of the Policy itself is called for.

The Model agreements include the following:

- a. Model donation agreement
- b. Model incoming loan agreement
- c. Model outgoing loan agreement
- d. Model reproduction rights agreement for incoming loan
- e. Model reproduction rights agreement for outgoing loan