

# M+ Acquisition Policy

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## TABLE OF CONTENTS

1. PURPOSE .....	3
2. BACKGROUND .....	3
3. OUTLINE .....	4
4. COLLECTION STRATEGY .....	5
5. PROCEDURES AND AUTHORISATION OF ACQUISITIONS .....	13
6. DEACCESSIONING AND DISPOSAL .....	19
7. ETHICS AND STANDARDS .....	20
8. CONDITIONS OF GIFTS AND BEQUESTS .....	22
9. REVIEW OF THE ACQUISITION POLICY .....	22
APPENDIX I .....	23
APPENDIX II .....	24
APPENDIX III .....	25
APPENDIX IV .....	26
APPENDIX V .....	27

## PURPOSE

1 This policy lays down the strategy for building the M+ Collection in the short- to-medium term. This policy is intended to be revisited on a recurring basis as the M+ Collection develops.

## BACKGROUND

2 The Museums Advisory Group's (MAG) report to the Consultative Committee on the Core Arts and Cultural Facilities of the West Kowloon Cultural District of 23 November 2006 stated the following:

*"Given the nature of M+ and the changing environment, MAG considers that the collection strategy should be broad and general at this stage and recommends as follows:*

*The collection may focus on 20<sup>th</sup> and 21<sup>st</sup> century visual culture, beginning with visual art, design, moving image and popular culture from Hong Kong, expanding to other regions of China, Asia and the rest of the world.*

*Hong Kong has rich collections of ink art works. M+ should try to attract these collections, to showcase this important visual form and its interplay with other art forms."*

3 The report also calls for M+ to:

*"acquire, conserve, research and exhibit, as well as communicate and inspire for the purposes of study, education, enjoyment and appreciation of the material evidence of people and their environment."*

4 A sum of HKD1.7 billion is allocated as "Collection and Collection related costs" in the financial plan of West Kowloon Cultural District Authority (WKCDA) for M+, of which HKD973 million is specifically earmarked for initial acquisitions. The first acquisitions were made in 2012-13 and will continue until the opening of the museum and beyond. The actual timeline of acquisitions will be subject to the opportunities that may arise after consultation with the Curatorial Acquisitions Group (as defined in paragraph 43). The strategy, criteria and approving procedures for acquisitions are set forth under "Collection Strategy" and "Procedures".

5        A number of Stakeholders' Roundtable discussions focusing on acquisitions and presentation of collections were held in February, March and October 2011 for the purpose of informing and assessing the ideas outlined in this document. Subsequent to these roundtable discussions, the original policy was presented to and approved by the WKCD Board on 12 June 2012. The policy was then reviewed in 2014 and the revised policy was approved by the WKCD Board on 24 March 2015. The second regular review of the policy was conducted in 2017.

## **OUTLINE**

6        M+ is currently building a world-class collection representative of the 20<sup>th</sup> and 21<sup>st</sup> century visual culture with a global vision from Hong Kong. Subsequent to the 2006 MAG recommendation, the M+ management further developed the scope for the M+ Collection of visual culture—namely, defining visual culture as consisting of the three disciplinary areas of Design and Architecture, Moving Image, and Visual Art. Following further discussions between the M+ management and stakeholders, it has been proposed that Hong Kong Visual Culture be the fourth area intersecting with the three abovementioned disciplines. In distinction from the three disciplines, Hong Kong Visual Culture functions as a geographically and thematically specific field deepening the engagement with the location of the museum; and as the weft to the warps of the three disciplines, threading through them and holding them together. Hong Kong Visual Culture includes aspects of popular culture, vernacular material culture, print culture, and media culture, among others, that may not be readily classified under the rubric of the three main disciplines (see paragraph 35). Ink art, an important part of Hong Kong visual culture is also one of the cornerstones of the discipline of Visual Art, whose perimeter is broadly international and transregional in line with the museum's global vision. The collection forms and is the 'backbone' of the museum, constantly in dialogue with the temporary exhibitions, programmes and educational activities of the museum. In addition to providing a historical reference to the contemporary, the collection is also continually re-interpreted, re-evaluated and re-written by the museum's temporary programmes.

7        The ambition of M+ does not merely lie in building a collection that reflects its time and place – much in the same way as other world-class museums such as MoMA in New York and the Centre Pompidou in Paris have begun building their respective collections in a certain environment at a particular time. Any visitor that encounters the M+ Collection

should experience that he/she is in Hong Kong, in China and in Asia, but also in the world. It is therefore our ultimate goal to build a collection that looks at the world from a Hong Kong perspective, in which global developments in visual culture will be filtered through the lens of what is relevant to Hong Kong's current place in the world.

8 Collecting for a museum brings together three components: strategy, research, and opportunity. The strategy will naturally and inevitably be influenced, evaluated, evolved, and adjusted in order to accommodate new and ongoing research as well as unforeseen opportunities.

## **COLLECTION STRATEGY**

### **A. BUILDING THE COLLECTION**

9 The strategy for collecting works of visual culture may evolve and adapt over time as the collection grows. The proposed strategy aims at building the collection for M+.

10 (i) An important part of building the collection is the soliciting of donations of whole collections or groups of works from private collectors and foundations. A part of the strategy is to regard a portion of the M+ acquisition funds as 'seed money', using a mixed 'donation and acquisition' approach that follows the Panza/d'Offay model (see **Appendix II**).

(ii) It will be important to complement these groups of works with direct acquisitions from galleries, auctions, artists and private collectors, as well as with donations and bequests of individual works from collectors and artists.

11 M+ will also commission works directly from artists as a way to produce a wide range of works that have the potential of entering the collection. These approaches clearly indicate that building the M+ Collection is and should be viewed as an organic and fluid process, which may only be partially regulated by a strategy.

### **B. ACQUIRING WITH FORESIGHT**

12 'Buy early, or wait for historic validation?' – This is an important strategic question, but the answer is highly dependent on what has already come into the collection, not the least via donations. In general, when one studies European or American art institutions that have put together world-class museum collections, one tends to come to the conclusion that

these institutions often acquired early, taking the risk of acquiring works that may not at the time have been appear to be 'significant' from a historical perspective. The general view of this practice is that if, for instance, only ten percent of the acquired works emerges at a later stage as historically important, it is then a 'risk' worth taking. This does not mean that acquisitions should be made without exercising strict discipline in selecting and acquiring works. It should however afford a greater flexibility in relation to the geographical core of the collection (Hong Kong) than the periphery (outside Asia) as demonstrated by the model described in paragraphs 18-22.

### C. COLLECTING PRIORITIES

13 M+'s collection strategy will be shaped by the following priorities consisting of (I) three strategic areas of concern relating to chronology, geography and various fields amidst the complexity of visual culture and (II) one or more of the seven criteria relating to the quality and nature of the acquired work.

#### (I) STRATEGIC AREAS OF CONCERN

##### **The Collection Time Period**

14 *"M+ will be a new type of cultural institution with its mission to focus on the 20<sup>th</sup> and 21<sup>st</sup> century visual culture, broadly defined, from a Hong Kong perspective, the perspective of now, and with a global vision."* (MAG Report 2006)

15 To act in accordance with focusing on "the perspective of now", as stated in the MAG paper and quoted above, the composition of the collection must be flexible in its representation of time. This implies that the issue of how far back in time the entire collection, or how comprehensive the collection for each of the fields illustrated below ought to be, should and will be determined by the respective work and discipline, as well as the preferred logic of presentation. Collecting cannot just be an end in itself, but should be determined by the functions that we expect the collection to serve.

16 Collecting with a "perspective of now" is more than collecting the most recent, but having collecting priorities be shaped by a perspective alert to emerging developments in cultural production, such that acquisitions – historic or contemporary – must be relevant to current trends, discussions, and research in contemporary culture to meet the goal of

establishing a new type of cultural institution that echoes the hybridity, contemporaneity, and urgency of its place.

17 Although employing the “perspective of now” signifies an approximate starting point for each field of the collection, their formation and development have to be weighed against numerous factors such as the overall composition of the entire collection, the strengths and needs of each category of the collection, and the contemporary relevance of works in the face of a rapidly changing cultural landscape. This ultimately makes it impossible to define these points with a precise and inflexible date or timeline. Additionally, it is essential to bear in mind that the exhibition programme is not bound to the same time configuration of the collection. The temporary exhibitions should be utilised as external elements to enhance and complement the changing historical narratives that the collection can frame and address.

### **The Collection Geography**

18 The collection can be viewed as a number of concentric circles, which is in essence a materialisation of the corresponding relationships between different geographical zones in a globalised world. At the core of the collection will be visual culture from Hong Kong, represented by major works by artists and makers in Hong Kong to provide a rich context for the development of creativity in the city, which is a manifestation of our emphasis on physical, visual and cultural locality.

19 Hong Kong visual culture, which includes popular culture, is a collecting priority that cuts across all three collection fields as defined in paragraphs 6 as well as 32–34, and aims at expressing both the interdisciplinary and the transnational nature inherent in the creative practices specific to the locality of Hong Kong. These may represent the regional and international cultural influence of practices unique to Hong Kong, or how the international language of disciplinary practices has been expressed in Hong Kong. One important aim of building a collection of visual culture in Hong Kong at M+ is to complement those collections held in other public institutions (see paragraph 35). Where a collecting field is not represented in other public institutions in Hong Kong, specifically architecture, M+ will endeavour to collect as widely and deeply as is practicable.

20 Expanding immediately from this focal point will be a rich and comprehensive collection of visual culture from other parts of China. Naturally, and strategically, other parts of Asia will be represented substantially to reflect the connections among these regions. The museum intends to build an authoritative international collection of the visual culture of East Asia. Taking advantage of the strategic location of Hong Kong at the juncture of East Asia and Southeast and South Asia, the collection will also aim to represent the great diversity and range of our neighbouring Asian regions.

21 Expanding out from the inner circles of Hong Kong, China, East, Southeast and South Asia, the collection will reflect the historical implications of local, regional, and global networks on cultural production that bring about a more nuanced understanding of cultural hybridities across Asia, and their relationships to the rest of the world.

22 When selecting works of visual culture from outside of Asia, we will be particularly strategic and precise. This is in no way an exercise in isolation, but a more focused approach to building the collection. Thus, strong arguments and/or elaborations should be presented as to why this artist and/or that work should enter the collection. Connections to Hong Kong, surrounding regions and across Asia due to migration or resettlement can provide natural justification. Important influence on artists and makers in our regions, and inspiration received from the visual cultures and philosophies originating from Asia can function as strong reasons as well. In addition, aesthetic, formal, and philosophical parallels or affinities between visual culture in our region and certain works from outside Asia can serve as a crucial reason for acquisitions for the collection.

### **Fields of Focus**

23 In recent years, many of the most interesting elements or works in visual culture have emerged at the intersections of the different fields of Design and Architecture, Moving Image, and Visual Art. While this interdisciplinary approach is visible in many parts of the world, it is amplified by Asia's, and especially Hong Kong's fluid creative climate, where collaborations and crossovers between different professions and fields have become the norm in many practices. This is also evident in how aspects of popular culture, vernacular material culture, print culture, and media culture, etc. with strong roots in Hong Kong have a productive relationship and overlap with one or more fields of Design and Architecture,



Moving Image, and Visual Art. By establishing Hong Kong Visual Culture as the fourth area of focus, encompassing popular culture within it, it amplifies and formalises this commitment.

24 The relationships between different types of visual cultural practices have moved into a complex territory that have restructured the preconceived, basically Western, understanding of rigid boundaries between Visual Art and other aspects of visual culture. Many forms of artistic productions or other forms of creation today can be accounted for and registered under a variety of categories. The collection should reflect the significance of the vital exchange within these interdisciplinary models.

25 M+ will deploy this recent and more global concept of 'art', coupling it with a degree of flexibility afforded by the notion of 'interdisciplinarity', to develop a collection that can function as a portal through which various aspects of visual culture may be investigated and explored, both autonomously and collectively, while retaining the specificities and histories of each genre or type of practice.

26 Given the rapid development of new concepts, technologies, and means of production today, the collectible media for all visual cultural fields will mainly consist of, but are not limited to, drawing, electronic media, film, print, installation, intangibles, painting, photography, printed matter, sculpture, models, archives and mass produced objects. Each of these entails a completely distinct set of conservation requirements that necessitate special care in the form of proper documentation.

27 It is thus imperative to also establish a clear strategy in collecting works or objects of more ephemeral character. As modes of expression have evolved rapidly in contemporary artistic production, practices such as time-based or performance art, or art made of materials that deteriorate, have emerged as major trends in shaping and defining the course of contemporary artistic history. The expectation of eternal existence of an object or an artwork has become more and more challenged. Although some museums in principle do not collect works and objects with a limited life span, M+ takes the stance that a work of art or object should be judged by its artistic and cultural importance rather than the potential length of its existence in honouring the nature of the work or object as intended at its conception, proper care must be taken in documenting any conservation needs.

28 In some specific fields of visual culture, it is likely that substantial holdings may already exist in other public institutions in Hong Kong. M+ is in favour of long and short term loan arrangements with other institutions to optimise the use of existing resources as well as avoid unnecessary duplication.

#### Collection Fields

29 The collection is not confined or limited to the items listed below under each field. Also, in light of the increasing interrelations between the various fields, some of the listed type of works or media are not exclusive to one field or category, but could be represented in one or more of the fields listed below.

30 The collection for each field includes archival materials that include everything from sketchbooks, printed ephemera, study models, and audio-visual materials that will play a significant role in documenting and interpreting works in the collection.

31 With the increasing expertise afforded by the M+ curatorial team, a more specific roadmap for each field will also be formulated over time.

#### (a) Design and Architecture

32 The Design and Architecture collection is built on the premise of 'design' and 'architecture' as categories and as processes, consisting of finished products and materials that reveal the context and dimensions of design practice spanning disciplines such as architecture, communication design, industrial design, furniture, interiors, fashion, and digital design, and their relation to socio-cultural-technological significance.

#### (b) Moving Image

33 The Moving Image collection comprises video, film, experimental cinema, documentary, animation, and digital media, exploring the art, history, technology, and creative use of the medium, its engagement with issues of the day, and its role as catalyst for public discourse.

#### (c) Visual Art

34 Spanning a wide range of media – from paintings, ink art, sculpture, installations, printed matter, drawings, and photography, to variable media and time-based art such as

performance, video, digital, and sound art – the Visual Art collection reflects decisive historical developments and the expansive terms of art-making today.

#### (d) Hong Kong Visual Culture

35 Hong Kong Visual Culture is the fourth area complementing the three disciplines of Design and Architecture, Moving Image, and Visual Art. As per the positioning of this geographically and topically specific area in addition to the three disciplinary fields, it is important to recognise that some well-established public institutions in Hong Kong have already committed considerable resources to building collections in areas that may be defined as popular culture, which M+ sees as part and parcel of Hong Kong Visual Culture. Specifically, Hong Kong Heritage Museum, Hong Kong Museum of History, and Hong Kong Film Archive already have substantial collections related to film, popular literary figures, film celebrities, fashion, comics, printed matter, graphic design, and photography, among others. Popular culture is frequently an inherent element of M+'s three collection fields of Design and Architecture, Moving Image, and Visual Art, and many mediums included therein (see paragraphs 26 and 32-34) and is subsumed under the larger category of Hong Kong Visual Culture. By emphasising possibilities of interdisciplinary and international interpretations, as well as by situating it in a larger, more complex field of Hong Kong Visual Culture, M+ will contribute new approaches to the well-heeled topic already well covered and addressed by local sister institutions. Where there are overlapping interests with other institutions, M+ endeavours to be in regular communication and to share information relating to acquisitions in order not to duplicate efforts and resources. In addition to collection, M+ aims to develop thematic exhibitions and other public programmes that reflect the transnational nature and influence of Hong Kong Visual Culture.

#### (II) ACQUISITION CRITERIA

##### **Creative & Aesthetic Excellence**

36 The creative and aesthetic quality of a work of art, design, or film should be of the highest possible standard in relation to its position within its creative oeuvre, artistic or historical period, and its particular cultural tradition. The work should illustrate a significant development of a specific technique, exemplify excellence in craftsmanship or execution, and increase the understanding of a method of construction of a particular class of collected works.

### **Historical & Documentary Significance**

37 The work should fulfil one or more of the following with regard to historical and documentary significance: it should contribute significantly to the history of the art, design, architecture, and moving-image collected by the museum; it should be a datable work by an important artist or workshop; have significant provenance, be associated with an important social, cultural, or political event; provide evidence of the workings of a specific industry and/or trade; be or have been regarded as particularly significant for reasons related to creative excellence, intellectual exploration, social commentary, and research/educational value. The work should throw light on other objects in the collection; it should provide a record of a way of life; reflect the taste of a certain period in a particularly evocative manner.

### **Establishing the Collection**

38 Now that a solid foundation for the collection has been shaped, in large part thanks to significant, generous donations from artists, makers, and collectors, M+ aims to amplify its efforts to cultivate and secure further donations.

### **Capacity as a Catalyst**

39 A collection's quality is not only dependent on the quality of individual works but also on how the works together, in different combinations, can tell the multiple stories of the 20<sup>th</sup> and 21<sup>st</sup> century visual culture. Building a collection is a cumulative process, where existing works also formulate what the coming works should be.

### **Condition**

40 The physical state of the work must be the best possible for the type of work under consideration, and to the extent that there are restorations, these must not be so great as to compromise the original integrity of the work. The condition of works considered for acquisition will be assessed by the relevant curator and, when necessary, by a specialised conservator to ensure that they are fit for display and exhibition.

### **Attribution and Authenticity**

41 It is the responsibility of the curatorial staff to establish as precisely as possible the correct attribution and authenticity of all works recommended for acquisition. Works will

not be knowingly acquired or recommended for acquisition if they have been collected or obtained under illegal circumstances.

### **Legal Title**

42.1 The legal title of a work should be available or obtainable free and clear of restrictions or qualifications. If restrictions or qualifications are unavoidable and acceptable to the museum, they must be approved by the Board of Directors of M Plus Museum Limited (M+ Board) or the WKCDA Board, depending on the purchase price/value of the work. Every effort must be made to establish clear title and full provenance of the work under consideration. Title is deemed to be transferred on the date when a deed of gift is signed by a donor or when payment is made for work being acquired with a financial consideration. A Due Diligence procedures following the principles set out in Chapter 1.3 (see **Appendix III**) of the M+ Collections Management Policy will follow.

### **Licence**

42.2 When the nature of certain work does not allow for the transfer of legal title upon acquisition, M+ may acquire such work by way of a licence. Such work may include but not be limited to films, videos, and other digital work. The licence shall be perpetual, irrevocable, and preferably sublicensable.

42.3 To acquire a work by way of a licence, the relevant curator shall prepare a written justification in support for acquiring the licence. Such acquisitions would be approved in accordance with the procedures set out in this policy.

## **PROCEDURES AND AUTHORISATION OF ACQUISITIONS**

### **A. CONDITIONS FOR ACQUISITION**

43 M+ may acquire works by purchase, gift, bequest, exchange, transfer, license, or commission – either from its own resources or from monies donated specifically for this purpose. All proposed acquisitions should be carefully reviewed and critically discussed by the Curatorial Acquisitions Group which consists of the Deputy Director and Chief Curator and other relevant M+ curators, and when necessary the Museum Director (MD). All proposed acquisitions must have the endorsement of the MD before they are presented to a higher approving authority for approval.

44 Long-term loans are often proposed as alternatives to donations. In general M+ does not accept long-term loans of works or unique objects if the object does not belong to a museum, trust, or any other similar entity that makes a sale of the object impossible. Otherwise, the museum could be in danger of becoming a 'display window' for works of art that would later surface in the market, endorsed and validated by the museum at a cost (insurance, conservation, etc.) to the institution. This restrictive view on long-term loans is a common practice in most major museums worldwide. Detailed arrangements on long-term loans are set out in Chapter 3.3 (see **Appendix IV**) of the M+ Collections Management Policy.

45 A museum should be uncompromising in its decisions with the works it acquires; it should not steer away from important or major works of art from acquisition on the basis of practical issues, such as storage limitation, installation specification, or any other similar reason.

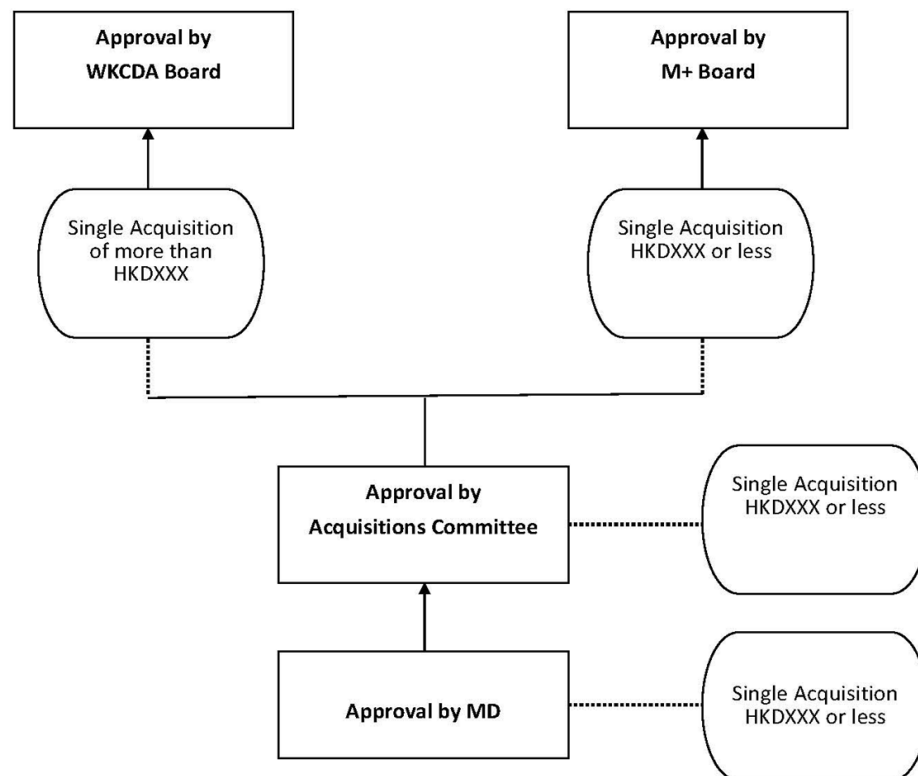
46 Authorisation and procedures vary according to the purchase price or fair market value, whereas the criteria for acquisition remain the same.

47 The development of the collection must be made on the recommendation and with the guidance of the curatorial staff and must be within the policy and functional framework of the museum. Curatorial recommendations are based on expertise and on the research presented in the written justification. Works recommended for acquisition will be judged, where appropriate, according to the criteria listed under Acquisition Criteria. Due diligence checks will be made by the curatorial staff as part of the acquisition process. In specific cases the relevant curator may prepare a case study for discussion prior to the final decision on the acquisition. The responsibility to oversee the due diligence procedures will lie with the Deputy Director and Chief Curator.

B. PROCEDURE AND AUTHORISATION OF ACQUISITIONS

48 Purchases or acquisitions by gift or bequest are approved by different tiers of authority<sup>1</sup> according to the purchase price or fair market value of the works of a single acquisition<sup>2</sup>:

- the MD, where the purchase price/value is HKDXXX or less. The Acquisitions Committee may from time to time set a maximum total purchase price/value of acquisitions by purchase to be approved by the MD between two meetings of the Acquisitions Committee.<sup>3</sup>
- the Acquisitions Committee where the purchase price/value is HKDXXX or less
- the M+ Board, where the purchase price/value is HKDXXX or less
- the WKCDA Board, where the purchase price/value is more than HKDXXX



<sup>1</sup> In accordance with the WKCDA's Delegation of Authority Manual.

<sup>2</sup> Where works are sold individually (not as part of an inalienable set) and are individually priced, each individual work is considered a single acquisition even if two or more works by the same artist and from the same seller are simultaneously acquired in a single transaction.

<sup>3</sup> The relevant total purchase price/value has been set as not more than HKDXXX by the Interim Acquisition Committee as at end September 2014 and then by the Acquisitions Committee on 10 May 2016.

### Written Justification

49 A written justification will be required in those cases where a decision to acquire a work is to be made by the MD and where the acquisition requires the approval of the Acquisitions Committee. The MD shall report all acquisitions approved by him/her to the M+ Board and the WKCDA Board on a half-yearly basis.

50 Where the approval of the Acquisitions Committee, the M+ Board, or the WKCDA Board is required, a written request for approval and a written justification for each work proposed are to be presented with a photograph or photographs of the work along with explanatory or contextual images, for discussion. Each proposed work must have been examined by a member of curatorial staff or a designated representative of the museum before being proposed for acquisition.

51 The written justification includes:

- basic catalogue information
- all criteria directly applicable to the work being considered
- biographical information (where applicable)
- a discussion of the importance of the work for the collection
- a summary of the market price of the work proposed and the negotiated reduction for the museum, or the value of the donation
- a substantiation of the price or fair market value -- in exceptional cases, such as high-price works (HKDXXX for works from secondary market and HKDXXX for works from primary market)
- an estimate of follow-on cost for conservation, storage, installation and de-installation -- in exceptional cases, such as large-scale works
- conservation report -- in exceptional cases, such as extremely fragile or environmentally sensitive works

52 Above the MD approval level, an acquisition is accepted when a simple majority of votes of the members of the approving authority present and voting are in favour of the proposed work.



53 For the purposes of the Hong Kong dollar ceilings expressed above, “purchase price” refers to the transaction price for the work(s) to be acquired, and where applicable, includes auction house commissions.

54 If the only reason for determining fair market value is for the purpose of establishing the authority required for approval, approximation of the value may be determined by the MD.

C. PROCEDURES FOR THE ACQUISITION OF WORKS OF MORE THAN HKDXXX  
(SINGLE ACQUISITION)

55 All acquisitions considered by the Acquisitions Committee will be brought forward by a curator on the recommendation of the Deputy Director and Chief Curator, endorsed by the MD. The curator recommending a work to the Acquisitions Committee will provide the written justification as outlined above and will participate in the Acquisitions Committee’s full deliberations.

56 When an independent appraisal is warranted, the Acquisitions Committee will by resolution take the necessary steps to obtain it from (i) an expert advisor or (ii) a recognised art dealer or auction house provided that there are no conflicts of interests.

57 The different tiers of authority can set conditions and price ceilings for negotiation purposes. All negotiations will be conducted by a member of the M+ team as appointed by the MD in the presence of a witness who is also appointed by the MD, for example, another member of the M+ team, a senior member of other departments of the WKCD, or a member of the Acquisitions Committee, based on the price approved and the conditions and price ceilings set by the approving authority. The salient points and the results of the negotiation will be documented and reported to the approving authority and where practicable, the negotiation team should seek approval-in-principle before concluding the deal.

58 All works of more than HKDXXX and up to HKDXXX will be presented to the M+ Board and all works of more than HKDXXX will be presented to the WKCD Board after endorsement of the Acquisitions Committee. The M+ Board or the WKCD Board, as the

case may be, will then act as the “acquisition committee” in becoming the responsible authority for the acquisition.

59 For works purchased via auction, a summary justification along with an image will be sent to the Acquisitions Committee members if the amount is more than HKDXXX and up to HKDXXX; or to the M+ Board if the amount is more than HKDXXX and up to HKDXXX; or to the WKCDA Board if the amount is more than HKDXXX for determining the conditions for bidding such as the price approved and the price ceiling including all premiums and taxes. A conference call may be convened, in order to decide whether M+ will bid and to determine the conditions for bidding and where necessary, also to seek further instruction from the approving authority. The bidding will be conducted by a member of the M+ team or any person (as appointed by the MD) in the presence of a witness (who is also appointed by the MD), for example, another member of the M+ team, a senior member of other departments of the WKCDA or a member of the Acquisitions Committee, based on the conditions set by the Acquisitions Committee/M+ Board /WKCDA Board. If a professional agent is appointed by the MD to bid at auction on behalf of M Plus Museum Limited, the commission payable to the agent shall form part of the costs of the work. The bidding method to be used (whether it is via telephone, in person, absentee bids, online bidding or other means such as having museum staff physically present at the auction and give instructions via telephone to a representative who does the bidding) will be dependent on the situation and decided on a case by case basis.

60 M+ Management will report to the M+ Board and the WKCDA Board on the purchases made or donations received on a half-yearly basis, and provide an analysis of the M+ Collection by geographical region and genres at least once every year for members’ information.

D. PROCEDURES FOR THE ACQUISITION OF COMMISSIONED WORKS

61 M+ will ask for the right of first refusal for all works commissioned by the museum. The decision-making process after completion will be handled in the same way as an acquisition or gift proposal. In case a decision is made to acquire the completed commissioned work, a price will be negotiated with the artist minus the cost of production already paid by M+.

E. GOVERNANCE

62 WKCDA has established a Collections Trust to be the legal owner and to hold the collection (together with other collections and collectibles) under separate legal ownership from the legal entity responsible for the day-to-day management and conduct of M+.

F. CO-OWNERSHIP

63 M+ will consider co-ownership only on an exceptional basis. In such exceptional cases, and to avoid uncertainty, the details of the agreement and the rights and obligations of each party will be clearly documented.

**DEACCESSIONING AND DISPOSAL**

64 A disposal is the permanent alienation from M+ of a work in its collection and will only be undertaken under exceptional circumstances. Please also see Chapter 2 (**Appendix V**) of the M+ Collections Management Policy.

65 M+ has the responsibility to deaccession Objects from the Collections on behalf of the M+ Collections Trust. This is to be done in accordance with the provisions of the Trust Deed. No work may be disposed of contrary to the terms on which it was purchased, given, bequeathed, or otherwise made available to M+. Objects can only be deaccessioned from the M+ Collections Trust with the prior written approval of WKCDA, the M+ Board, the MDM+ and the Protector. After obtaining such written approval, the proposal must be passed unanimously at a board meeting of the directors of the Trustee..

66 Deaccessioned Objects may be disposed of by several methods, including but not limited to transfer, sale, or exchange in accordance with the Trust Deed. At the prior written request of the Acquisitions Committee of M+, all funds received from properly deaccessioned Objects shall be used to acquire any Objects for the M+ Collection and for the purposes of the Trust. Where a work is sold that was acquired by gift or bequest, further purchases from these proceeds will be in the name of the original donor or bequeather.

67 Further, deaccessioning shall be governed by the “General Principles on Conditions of Deaccession From Museum Collections” contained in the Resolution adopted by the General Assembly of CIMAM (International Committee for Museums and Collections of Modern Art) – Mexico D.F. November 10, 2009 [revised June, 2011].

## **ETHICS AND STANDARDS**

68 In its collecting activities, M+ should act in a responsible manner to preserve humanity's artistic and cultural heritage. Illegal, unethical or irresponsible traffic in works of art and visual culture is prohibited. M+ is especially concerned with the proper title and unquestionable provenance of the works in its collection, conforming to national and international ethical standards.

69 A work shall not be excluded from collection by M+ for reasons not related to the quality or importance of the item itself, e.g. the gender, race, political affiliation, ethnicity or religion of the artist, designer or author.

70 (i) In all collection-related activities, the MD, museum employees, members of the Acquisitions Committee, M+ Board as well as the WKCDA Board and any other persons who are in a position of responsibility, shall make every effort to anticipate and address situations in which a conflict of interest or the appearance of a conflict of interest, whether direct or indirect, exists. All interests that may be in conflict with an acquisition have to be declared in written form to M Plus Museum Limited and for acquisitions presented to the WKCDA Board, also to the WKCDA before the start of the relevant acquisition discussion. The interested person is generally not required to withdraw from the relevant meeting but he/she will be disregarded for the purpose of forming a quorum to the meeting. He/she shall not vote on any question concerning the acquisition, influence or seek to influence the decision on the acquisition, or use or seek to use any information for personal benefit or the benefit of any party other than M Plus Museum Limited and the WKCDA such that the interest of M+ is prejudiced. Where the declared interest is material (as determined by the Chairman of the approving authority) or is a direct pecuniary interest, the interested person shall withdraw from the meeting and all relevant papers circulated to him/her shall be returned to the Secretary of the approving authority. When a direct pecuniary interest or material interest is known before the meeting, the Secretary shall withhold circulation of relevant papers to the interested person. All cases of declaration of conflict of interest and the decisions made to mitigate the conflict shall be recorded in the minutes of the meeting. Any employees of M Plus Museum Limited and the WKCDA who are found to have abused his/her position or violated the conflict of interest requirement mentioned above may be subject to disciplinary action and/or summary dismissal. Any employees and

board/committee members who are found to have abused his/her position or violate the conflict of interest requirement mentioned above could also be subject to criminal sanction such as the common law offence of misconduct in public office.

(ii) Private collecting of works of art by the Chief Executive Officer of WKCDA (WKCDA CEO), the MD, museum employees and WKCDA employees who have access to confidential collection-related information ("relevant WKCDA employees") is acceptable provided that no private collecting by the WKCDA CEO, the MD, museum employees or relevant WKCDA employees conflicts in any way with the collecting interests of the museum. All museum employees and relevant WKCDA employees shall declare annually to the MD all personal art and design acquisitions worth more than HKDXXX each as well as the suppliers of these acquired works, and all personal art and design de-acquisitions worth more than HKDXXX each. The WKCDA CEO and the MD shall declare annually to the Chairman of the M+ Board all personal art and design acquisitions worth more than HKDXXX each as well as the suppliers of these acquired works, and all personal art and design de-acquisitions worth more than HKDXXX each.

71 In relation to acceptance of advantages and receipt of gifts, the MD and museum employees shall comply with the relevant provisions laid down in the Code of Conduct for Staff of WKCDA. In brief, the MD and museum employees are prohibited in their official capacity from accepting gifts or advantages from any person having business dealings with M Plus Museum Limited or WKCDA unless special permission is sought prior to the acceptance from the WKCDA Board. If the MD and museum employees are offered in their private capacity any gifts or advantages from any person who has any official dealings with M Plus Museum Limited or WKCDA, they shall seek approval from the officer delegated the authority by the WKCDA Board ("Nominated Officer") prior to the acceptance. If the MD and museum employees are offered in their private capacity any art/museum related gifts or advantages from any person who does not have any official dealings with M Plus Museum Limited or WKCDA, they shall declare such art/museum related gifts or advantages to the Nominated Officer. The Nominated Officer is the WKCDA CEO unless he delegates the authority.

72 The monetary value of acquisitions, whether the purchase price or the fair market value for gifts and bequests, will be disclosed only by the MD.

73 In instances where a vendor, a donor or a bequeather requests that the value of the acquisition remain confidential, the MD shall seek the opinion of WKCDA's General Counsel or where appropriate, external legal advisor.

74 M+ shall not disclose the identity of the donor or bequeather unless he/she agrees to it.

#### **CONDITIONS OF GIFTS AND BEQUESTS**

75 M+ does not accept gifts or bequests where conditions are attached, unless these conditions are approved by the M+ Board or if the amount exceeds HKDXXX, the WKCDA Board.

#### **REVIEW OF THE ACQUISITION POLICY**

76 This acquisition policy shall be reviewed by the Acquisitions Committee and M+ Board at least once every five years and any amendments to this policy shall be approved by the M+ Board (after consultation with the WKCDA Board if the amendments concern either or both of the role of the WKCDA Board in acquisitions or matters that have implications for financial control and governance). Any amendments approved shall be reported to the WKCDA Board.

**REFERENCE DOCUMENTS**

National Gallery of Australia - Acquisitions Policy, 2006

Museum of New Zealand Te Papa Tongarewa - Annual Report 2008/09

National Gallery of Canada - Acquisitions Policy, 2011

Professional Practices in Art Museums - Association of Art Museum Directors, USA 2011

Acquisition Policy and Procedures of the Irish Museum of Modern Art

Acquisition policy of the Musée National d'Art Modern, Centre Pompidou, Paris

Count Giuseppe Panza di Biumo was one of the great collectors of first American Abstract Expressionism and early Pop Art as well as American Minimalism, Light/Space and Conceptual Art. His transactions with MOCA (Museum of Contemporary Art in Los Angeles) in 1984 and the Guggenheim Museum in 1991 became a model for transferring major collections from a private collector to a museum. The museums paid what had been estimated to be between 20-25% of the market value to the collector, thereby both confirming the commitment from the museum's side and reimbursing the collector for the approximate cost at the time of the original acquisition. The sums paid (USD 11 million and USD 30 million respectively) were still substantial by museum standards.

Anthony d'Offay was the owner of one of London's most prominent art galleries from 1980 to 2002. In 2006, The National Galleries of Scotland and Tate acquired a collection of 725 works from Anthony d'Offay for GBP 26.5 million – the sum d'Offay originally paid for it. The collection was valued at GBP 125 million, meaning that the museums paid 21.5% of the market value. In 2000, renowned German/ Jewish gallery owner and collector Heinz Berggruen sold his collection of modern masterpieces, including Pablo Picasso, Alberto Giacometti, Georges Braque, Paul Klee and Henri Matisse, for Euro 120 million—one-tenth of its value—to the State of Berlin, Germany. The Berggruen Collection is now part of the National Gallery of Berlin and a museum has been named after him.



### 1.3. Due diligence, Authenticity, Legal Title, Provenance

(See *Acquisition Policy*, Clauses 41 and 42)

In accordance with the standards set out in the ICOM *Code of Ethics (2017)* and the ICA, *Code of Ethics (1996)*, M+ Ltd. shall conduct proper due diligence to ensure that all Objects that it acquires or borrows are of clear and untainted Provenance in order to protect M+ Ltd. and ultimately the M+ Collections Trust from potential ownership disputes. Due diligence applies equally to Acquisitions and, to the best of all possible efforts, Incoming Loans.

M+ Ltd. shall make every effort to rigorously research the Provenance of an Object prior to Acquisition to determine that M+ Ltd. can obtain clear title to the Object. Such research should include, but is not necessarily limited to, determining:

- the ownership history of the Object;
- the countries in which the Object has been located and when;
- the exhibition history of the Object, if any;
- the publication history of the Object, if any;
- whether any claims to ownership of the Object have been made by any person, corporate entity or government other than the proposed seller or donor;
- whether the Object appears in relevant databases of stolen works; and
- the circumstances under which the Object is being offered to M+ Ltd.

For all Acquisitions and Incoming Loans, M+ Ltd. shall aim to obtain from sellers, donors, and Lenders all available information and accurate written documentation with respect to the ownership history of the Object prior to Acquisition or Loan approval. The documentation resulting from this research shall be used to directly inform the final decision to acquire or borrow.

Where necessary, M+ will make all possible efforts to extend its due diligence research beyond the information supplied by the seller, donor, or Lender to ascertain a full ownership history of the Object.

Not all Objects will have a full ownership history without gaps in their Provenance. This will not automatically preclude an Object from Acquisition or Loan. In these cases, the decision to acquire or borrow should be informed by the level of risk associated with the Object in the absence of ownership documentation. Clause 42 of the *Acquisition Policy* provides with regard to Acquisitions: 'If restrictions or qualifications (to legal title) are unavoidable and acceptable to the museum, they must be approved by the M+ Board or the WKCD Board, depending on the purchase price/value of the work'.

The parameters set out above shall be equally applied when considering Acquisitions of the Collection Archives. Detailed guidelines are defined in the Archives section of the Procedures Manual.

### **3.3 Long Term Loans**

Long Term Loans are loans of several years' duration and are often proposed as alternatives to donations. Clause 44 of the Acquisition Policy describes the parameters under which a Long Term Loan may be considered.

Long Term Loans from the Collection shall follow the same conditions as all Outgoing Loans, but shall be governed by a Loan Agreement reviewed every three to five years.

To ensure that Long Term Loans are appropriately displayed and acknowledged, M+ may ask the Borrower to provide updated photographic documentation and condition reports of the Long Term Loans, at any point throughout the Loan. Site visits may also be arranged to ensure that the Object(s) the subject of a Long Term Loan are appropriately displayed and acknowledged.

M+ Ltd. shall also consider incoming Long Term Loans for a period up to ten years. The initial period of an incoming Long Term Loan should be stated in the Loan Agreement and must never be open-ended. The incoming Long Term Loan can be renewed at the end of the term if both parties agree.

## 2. DEACCESSIONING AND DISPOSAL

As stated in clauses 64–67 of the Acquisition Policy: ‘A disposal is the permanent alienation from M+ of a work in its collection and will only be undertaken under exceptional circumstances’ (64) [...]. ‘Deaccession shall be governed by the “General Principles on Conditions of Deaccession from Modern and Contemporary Museum Collections” contained in the Resolution adopted by the General Assembly of CIMAM (International Committee for Museums and Collections of Modern Art) Mexico D.F., November 10, 2009 [revised June, 2011]’ (67).

Under the Management Agreement, M+ Ltd. has the responsibility to deaccession Objects from the Collections on behalf of the M+ Collections Trust. This is to be done in accordance with the provisions of the Trust Deed. No work may be disposed of contrary to the terms on which it was purchased, given, bequeathed, or otherwise made available to M+. Objects can only be deaccessioned from the M+ Collections Trust with the prior written approval of WKCD, the M+ Board, the MDM+ and the Protector (as defined in the Trust Deed). After obtaining such written approval, the proposal must be passed unanimously at a board meeting of the directors of the Trustee.

The criteria for determining whether an Object should be deaccessioned include, but are not limited to, the following:

- The Object is no longer relevant to the mission of M+ (no Objects will be considered for deaccession until the artist has deceased for 50 years.)
- The Object is redundant or is a duplicate and is not necessary for research or study purposes.
- M+ is ordered to return an Object to its original and rightful owner by a court of law; or M+ determines that the return of the Object is in the best interests of M+ Ltd., M+ Collections Ltd., the M+ Collections Trust or the Authority.
- M+ is unable to preserve the Object in a responsible manner; or the Object has deteriorated beyond repair and is unduly difficult or impossible to care for, or store properly.

Deaccessioned Objects may be disposed of by several methods, including but not limited to transfer, sale, or exchange in accordance with the Trust Deed. At the prior written request of the Acquisitions Committee of M+, all funds received from properly deaccessioned Objects shall be used to acquire any Objects for the M+ Collections and for the purposes of the Trust. Where a work is sold that was acquired by gift or bequest, further purchases from these proceeds will be in the name of the original donor or bequeather.