

CODE OF CONDUCT FOR CONTEMPORARY ART COLLECTORS

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PREAMBLE

Why a code of conduct for contemporary art collectors?

Collectors have been an essential part of the artworld since its very beginning. Throughout the centuries they have played the role of supporting and encouraging artists and their ecosystems. Collectors have contributed, and continue to contribute in many positive ways, to what art is today.

In the last few decades, the artworld (and beyond) has been going through a significant transformation wherein an increasing number of ethical questions around the role of art and art workers are being posed for discussion. In particular, there is increasing awareness that the art sector has historically operated with a level of disconnect from some of the basics of professional ethics. Consequentially, opacity and power/dependence are often the standard, even though transparency, accountability, integrity, and fairness are necessary in any such large-scale market.

As contemporary art collectors, we have perhaps escaped some of this fundamental questioning, possibly due to our powerful economic position within the sector. It is now urgent to question some of our practices and enable our role to thrive as positive agents in the artworld. We believe that art constitutes a major public interest with significant potential for social and political affect. This implies that those who own artworks have a set of ethical duties towards such artworks, their authors, and the professional environment surrounding them. We propose this *Code of Conduct for Contemporary Art Collectors* (**the Code**) as a first – but firm – step in that direction.

What is the Code?

The Code is a voluntary set of principles and standards that is meant to inspire and guide contemporary art collectors' behaviors, inciting us to ask ourselves important questions to better face the challenges of today and tomorrow, and become proactive agents toward a more fair and socially just artworld. It is entirely at the discretion of each individual collector to choose whether they adhere to its letter and spirit. In other words, the Code is not an attempt to moralize or tell anyone how to collect. There are as many ways of collecting as there are collectors, and that diversity is precious. No one will enforce the Code, it will rely on peer-to-peer accountability. Nevertheless, we believe that at this point in time, a bold discussion on these topics among collectors is necessary to start raising the right questions.

The Code is intended as an open living document, a collective endeavor that will be updated on a regular basis as its implementation creates opportunities for improvements. To strengthen it as a tool for an increasingly fair artworld, everyone is invited to comment on the Code to enhance it in future versions, and can do so by submitting suggestions on the website www.ethicsofcollecting.org.

To whom is the Code addressed?

The Code is addressed to contemporary art collectors (defined below). By fostering concrete behavioral changes, the Code advocates for the role of collectors as one that fairly and transparently assists the artistic, creative process, operating in dialogue with artists and art workers. Under the Code, collectors respect the autonomy of all artworld professionals, and collaboratively strive to ensure the well-being and working rights for all parties therein. We aim to move away from collecting being a secretive activity, pure buying power, a vehicle to social status, or a capricious and at times abusive private passion; toward transforming the stereotype of us as collectors and, to some extent, to provide a guide for us to change our own self-image. In other words, the Code maps out a role for collectors as accountable and transparent agents in the artworld, hence fairly recognizing the important role that we have played, and continue to play, in the history of art.

How can we challenge the burden of "patronage," a word deriving from the Latin *pater*, the Roman father, one who single-handedly decides what is in the interest of the family, the dominant but all-benevolent heteronormative male? How can we re-envision a word that shares the same root as *patriarchy*, *paternalistic*, *patronize*, and *patrolling*? How can we bring the "collective" into collecting, acknowledging our privileged position and repurposing it to positively contribute to multiple non-dominant narratives? How can our support no longer perpetuate dependence and vulnerability in artists and art workers? In a nutshell, the Code invites us to collectively rethink and re-deploy, with sleeves rolled up, the role of contemporary art collectors as socially just, accountable, and transparent agents in the artworld.

Who wrote the Code?

A code of conduct for collectors would only make sense if it came from collectors themselves, in an act of self-regulation and as a gesture of accountability. Accordingly, the Code has been discussed and drafted, for over a year, as a thought-provoking, consensus-based, creative endeavor by a collective of collectors active both at local and international levels. We are based in Europe, South and North America, with approximately half of us identifying as female and half as male (writing team: Pedro Barbosa, Haro Cumbusyan, Iordanis Kerenidis, Evrim Oralkan, Jessica Oralkan, Piergiorgio Pepe, Sandra Terdjman, Andre Zivanari). We circulated the Code as a draft for consultation to several professionals, including other collectors, artists, media

professionals, curators, and dealers, this time with a broader geographical scope and a more diverse expertise; their comments and suggestions have been discussed and integrated into the Code, to reflect collective and multiple views on these matters.

To conclude, the Code was drafted using the language of professional ethics – what is generally referred to as *deontology* – a discipline well established in public interest sectors (e.g., health, transport, energy) but to an extent underutilized in the artworld. Deontology relates to the behavior of professionals and the power relations that can trigger conflicts of interest, lack of transparency and integrity, corruption, abuse of dominance, undue influence, etc.

A call for action

As a call for action, we hope the Code will be broadly used as a tool for collectors and a thought-provoking text for professionals in the artworld and beyond. We hope that many more will adhere to the letter of the Code, that they will become advocates of its spirit, and that they will make such commitment a central and visible element in their collecting practice. It is only through this shared and embodied commitment that the Code can have a real impact.

DEFINITIONS

Collector: any individual, entity, or collective that acquires contemporary artworks or art-related materials, other than for commercial resale.

Dealer: galleries, auction houses, fairs, and other contemporary art dealers.

Governance Body: any governing body with advisory or decision-making powers such as an institutional board or committee; prize, award, or acquisition committee; “friends of” institutions governance committee; advisory board.

Institution: not-for-profit entity or organization related to contemporary art, whether public or private, regardless of its size.

Support: financial giving (e.g., monetary grants or donations), artwork donations, artwork loans, financial support to produce an exhibition or an artwork, or any other transfers of value. This definition does not include modest fees paid to join institutional “friends of” or similar associations, when they do not involve advisory or decision-making powers.

1. INTERACTING WITH ARTISTS

Collectors interact with artists with integrity and transparency, respecting their views, honoring their independence, recognizing and compensating their work. Collectors never use their power or influence to obtain any undue advantage from the artists, for financial or personal interests.

1.1. COMPENSATING ARTISTS FAIRLY AND PROMPTLY

Collectors always offer to compensate artists for any working time or services they may request (e.g., presentations, texts, help with installation, performances), and reimburse any associated expenses based on the honoraria standards existing in the sector. When purchasing artworks directly from artists, Collectors ensure artists are paid a fair market price and they receive the due proceeds of the transaction with no delay.

1.2. ADVOCATING FOR FAIR AND PROMPT COMPENSATION FOR ARTISTS

Collectors systematically advocate that Institutions make available adequate production resources for artists, that they compensate artists for the artworks shown, for

any working time or services the Institutions may request (e.g., presentations, texts, help with installation, performances), and reimburse any associated expenses based on the honoraria standards existing in the sector. In addition, when lending artworks from their collection to Institutions, if the Institutions refuse to comply with the standards in this paragraph, Collectors shall consider refusing to lend the artworks, after consulting the artist.

1.3. NOT SOLICITING GIFTS FROM ARTISTS

Collectors do not request from artists, directly or indirectly, gifts, donations, free artworks, artworks below fair market price, or any other benefits. If these benefits are offered by the artists in an unsolicited way, Collectors shall carefully consider the implications and expectations of accepting these benefits. Collectors never request nor accept such benefits when these are connected, or may have the appearance to be connected, to any role they may perform as members of Governance Bodies.

1.4. ADVISING ARTISTS IN THEIR INTEREST

Collectors advise artists only when requested, always in the interest of the artists, and not in their own interest or that of their collection.

1.5. COMMUNICATING RESPECTFULLY WITH ARTISTS

Collectors communicate with artists in a manner which is always respectful and transparent, fostering a safe environment for all, systematically avoiding any language or style which is condescending, overpromising, predatory, misleading, or dominating.

1.6. SUSTAINING FAIR AND BALANCED RELATIONSHIPS WITH ARTISTS

Interactions of a personal, romantic, or sexual nature between Collectors and artists are always based on both parties granting free and informed consent. Collectors never use their power and influence to force such interactions to their advantage. Sexual harassment is strictly prohibited.

2. BUILDING, MAINTAINING, AND SHOWING THE COLLECTION

Collectors acquire artworks and build their collection responsibly, exercising care when storing, preserving, and displaying artworks. Collectors strive to make artworks in their collection accessible when the adequate conditions are met.

2.1 COMPLIANCE WITH LAWS, REGULATIONS, AND CODES

Collectors must comply with all applicable laws, regulations, and codes on fair and transparent art-related transactions. They must avoid insider trading, corruption, tax avoidance, fraud, anticompetitive practices, and any other behavior sanctioned by the applicable laws, regulations, and codes. They must not engage in any art-related transaction as a way of money-laundering.

2.2 ASSURING THE INTEGRITY AND LONGEVITY OF THE COLLECTION

Collectors aim to show, frame, store, catalogue, preserve, and where applicable restore the artworks in their collection in the best possible conditions to assure their integrity and longevity, in line with the expectations of the artists, as detailed in the related certificate or contract. They shall always reference, credit, and quote the artworks and the artists with accuracy.

- 2.3 MAKING THE COLLECTION AVAILABLE FOR EXHIBITIONS
Collectors aim to make artworks in their collection available to artists, Institutions, and professionals with a view to the artworks being loaned and shown in exhibitions, when the transportation, preservation, and display conditions, as well as the exhibiting context, are adequate. They aim to consult or inform the artists systematically when asked to lend an artwork.
- 2.4 AVOIDING MANIPULATING THE MARKET
Collectors do not acquire or sell artworks with a view to manipulate the market. They consider the implications, for themselves and the artists, of acquiring or selling artworks for speculation purposes.
- 2.5 CONSIDERING THE ETHICAL AND REPUTATIONAL IMPACT OF FREEPORTS
Collectors consider the ethical and reputational impact of storing artworks in freeports and other long-term storage facilities. They respect the integrity of such artworks and ensure that they remain available in line with article: "Making the collection available for exhibitions." The additional costs specifically associated with such facilities (e.g., reports and formalities) are not borne by the artists, Institutions, and professionals requesting the loan but by the Collectors.
- 2.6 CONCLUDING PURCHASE CONTRACTS
When purchasing an artwork, Collectors consider concluding contracts with the artist and/or their legal representatives that explicitly state the terms and conditions of usage, display, reproduction, conservation, resale, and any other rights management provisions. Such contracts are aimed at protecting the interest of the artwork and the artist.
- 2.7 ENFORCING RESALE RIGHTS FOR ARTISTS
Collectors advocate that artists, their estate, or other not-for-profit organizations receive a fair share of any gain generated by the resale of an artwork, whether the resale takes place in auctions, via art professionals, privately, physically, digitally, or in any other manner.
- 2.8 INFORMING ARTISTS WHEN RESELLING ARTWORKS
When reselling an artwork, Collectors aim to inform the artist in advance.
- 2.9 ASPIRING TO HIGH STANDARDS WHEN SHOWING THE COLLECTION IN PUBLIC
When Collectors operate in the public sphere, for example by showing their collection, presenting it to the public, making it available to the public in physical form or digitally, or by opening exhibition spaces, they aspire to apply the same standards, for example in terms of transparency and inclusivity, as Institutions with a public interest mission, and are aware of their responsibility towards the public.
- 2.10 DISCLOSING DONATED ARTWORKS WHEN PUBLICLY DISPLAYED
Collectors aim to disclose if artworks are donated to them by artists, when such artworks are publicly displayed, unless the artist requires them not to.
- 2.11 NFTs AND BLOCKCHAINS
Collectors apply the provisions of this Code when operating in an online or digital context, including in connection to Non-Fungible Tokens (NFTs) and blockchains. Collectors leverage the potential for increased transparency and traceability offered by these technologies, and do not use them to manipulate the

market. In particular, Collectors aim to use platforms that comply with the applicable regulations, are ethically responsible, and environmentally conscious, that is, platforms that: promote the transparency of users and verify their identity, allow for robust audit trail, do not engage in tax evasion or money-laundering, do not actively undermine the role of other art professionals (e.g., art workers, curators, dealers and galleries, writers), limit their impact on the environment (e.g., carbon neutrality), and ensure that the creators of digital work receive a fair share of the relevant proceeds.

3. COMMISSIONING OR SUPPORTING THE PRODUCTION OF ARTWORKS

Collectors commission or support the production of artworks responsibly and fairly, never abusing their position of power to interfere with the artistic content or to obtain any undue advantage.

- 3.1 **DOCUMENTING THE PRODUCTION OR COMMISSIONING OF ARTWORKS**
When supporting the production or commissioning of an artwork, Collectors ensure that the agreed Support is provided based on a written contract with the artist and, if applicable, their Dealer or other representative. Such a contract reflects a fair and balanced negotiation and is never abusive nor unfair to the advantage of the Collector, but is agreed in the interest of the artist and the artwork. Such a contract describes all terms and conditions and includes the overall process and timeline, a detailed financial arrangement, the desired outcome, and the exhibiting conditions.
- 3.2 **HONORING THE PRODUCTION OR COMMISSION ENGAGEMENT**
When supporting the production or commissioning of an artwork, Collectors ensure that the agreed Support is always eventually provided, unless such artwork does not meet the terms and conditions agreed in the written contract.
- 3.3 **TRANSPARENCY OF THE COMMISSION OR PRODUCTION SUPPORT**
When supporting the production or commissioning of an artwork, Collectors are transparent and disclose the Support when the artwork is displayed or mentioned in public places.
- 3.4 **NOT INFLUENCING ARTISTIC CONTENT IN PRODUCED OR COMMISSIONED ARTWORKS**
When supporting the production of an artwork, and when commissioning an artwork, Collectors do not influence the artistic content of the artwork beyond initially agreeing with the artist on the terms of the commission, unless in response to an unsolicited request by the artist.
- 3.5 **PAYING FAIR MARKET PRICES FOR PRODUCED OR COMMISSIONED ARTWORKS**
If acquiring an artwork they produced or commissioned, Collectors pay the fair market price, considering the funds already provided and, when mutually agreed, an additional discount that recognizes the Collectors' commitment to the process, without it being exploitative.

4. SUPPORTING INSTITUTIONS

Collectors may provide Support to Institutions. They provide such Support in the interest of the Institution, as defined by the Institution itself, respecting its autonomy, acquisition and curatorial choices, without expecting any direct counterpart for themselves or their collection.

4.1 SUPPORTING INSTITUTIONS WITHOUT INFLUENCING THEM

Collectors ensure that the Support is not provided for nor cannot be perceived as influencing any aspect of the curatorial, acquisitional, programming, organizational, or financial autonomy of the supported Institution.

4.2 SUPPORTING INSTITUTIONS WITHOUT CONDITIONS

Collectors do not offer Support to Institutions in exchange for the Institution showing artwork from their collection or artwork from artists in their collection. They can provide Support to show such artwork only if it is requested by the Institution, the request is unsolicited and genuinely based on a pre-existing independent curatorial choice of the Institution. Collectors do not make the loan or donation of an artwork dependent upon how prominently and for what duration the artwork is to be displayed at the Institution, in exhibitions, in catalogs, on websites, or in other related documentation.

4.3 REJECTING ARTWASHING

Collectors do not provide Support to Institutions to improve their individual, family, or corporate image (i.e., for "artwashing" purposes).

4.4 TRANSPARENCY ABOUT RESOURCES

Collectors aim to be transparent about the source of their financial resources and about other activities they fund (e.g., political campaigns), to empower the supported Institutions to make informed decisions as to accepting or declining the Support.

4.5 DOCUMENTING AND DISCLOSING SUPPORT TO INSTITUTIONS

Collectors request from the supported Institution that the Support is formalized in advance in a detailed written document that aims to protect the autonomy of the Institution and in their interests. Collectors disclose the Support and request the same from the supported Institution (e.g., in catalogs, communication material related to the supported activity, in applicable annual reports, etc.) unless such disclosure would constitute a physical danger for the Institution or the Collector (e.g., kidnapping in some areas of the world). Such disclosure is only aimed at transparency, covers only a factual description of the Support, is modest in appearance, and shall not amount to self-promotion or self-advertising.

5. SERVING AS MEMBERS OF GOVERNANCE BODIES

Collectors may be appointed as members of Governance Bodies of Institutions based on their expertise, experience, knowledge, competence, ability to advocate for the Institution, and other substantive art-related skills. They accept the appointment and perform the related activities in the interest of the Institution, without expecting any direct counterpart for themselves or their collection.

- 5.1 MERIT-BASED MEMBERSHIPS IN GOVERNANCE BODIES
Collectors ensure that their appointment is primarily based on substantive art-related skills and is not directly linked to any past, actual, or potential Support to the Institution.
- 5.2 ADVOCATING FOR CONFLICT-OF-INTEREST PROCESSES
Collectors verify that the Governance Body has a formal process to identify, disclose, and address conflicts of interest, and that members of the Governance Body undersign it. If the Governance Body does not have such a process in place, Collectors shall request it be promptly implemented.
- 5.3 DISCLOSING CONFLICTS OF INTEREST
Collectors avoid or promptly disclose any actual, potential, or perceived conflict of interest that may impact their appointment or their duty to act in the interest of the Governance Body or the Institution. When the Governance Body is to make decisions on artworks or artists present in the Collectors' collection, the Collector promptly discloses this fact and follows any applicable procedures including, where required by such procedures, to abstain from voting. Collectors promptly disclose any similar roles or memberships – existing, new, or forthcoming – they hold in other Institutions.
- 5.4 NOT USING THE MEMBERSHIP TO BENEFIT OWN COLLECTION
Collectors do not request to show any artworks from their collection at the Institution, during their Governance Body membership. They can accept a request to loan such artworks only if it is requested by the Institution, the request is unsolicited and genuinely based on a pre-existing independent curatorial choice of the Institution.
- 5.5 MEMBERSHIP FOR NON-COMMERCIAL PURPOSES ONLY
Collectors do not request to buy or sell any artwork from or to the Institution in return for their appointment, or during their Governance Body membership. They may accept a request to sell such artworks only if it is requested by the Institution, the request is unsolicited and genuinely based on a pre-existing independent curatorial choice of the Institution.
- 5.6 AVOIDING INSIDER TRADING
Collectors must not use insider information acquired as a member of a Governance Body and deemed confidential to benefit themselves or their collection.
- 5.7 NOT COMPETING WITH THE INSTITUTION IN COLLECTING
Collectors do not knowingly compete, directly or indirectly, with the Institution for the purchase of artworks that are, or may be, of interest to the Institution.
- 5.8 REJECTING UNDUE INCENTIVES OR REWARDS
Collectors do not accept or request, from anyone, excessive hospitality or gifts, donations, free artworks, artworks at a price below fair market price, or any other benefits, if these are or could be perceived as incentives or rewards to influence the exercise of their duties as Governance Body members.
- 5.9 VIGILANCE OF INSTITUTIONAL COMPLIANCE
Collectors are vigilant about the Institution complying with all applicable professional standards and regulations and call into question any inappropriate practice or

behavior they witness or become aware of within the Institution (e.g., abusive behavior towards staff, refusal to pay artists, tax evasion efforts, etc.).

6. INTERACTING WITH DEALERS

Collectors interact with Dealers responsibly and transparently, avoiding any secretive, collusive, abusive, or exploitative behavior.

- 6.1 **HOLDING DEALERS ACCOUNTABLE TO INFORM ARTISTS**
Collectors request full transparency of transactions and hold Dealers accountable to promptly involve and inform artists about the pricing, any discount applied, the buyer's identity, and other details concerning any purchasing transaction regarding their artworks, using a receipt or other formal accounting document.
- 6.2 **HOLDING DEALERS ACCOUNTABLE TO PAY ARTIST PROMPTLY**
Collectors request and hold Dealers accountable to ensure artists promptly receive the fair due proceeds of any purchasing transaction regarding their artworks.
- 6.3 **NOT REQUESTING ARTWORKS BELOW FAIR MARKET PRICE**
Collectors do not intentionally use their power or reputation to request free artworks or artworks at a price below fair market price from Dealers. When price reductions below fair market price are proposed by a Dealer, Collectors hold the Dealer accountable that any such reduction is not borne by the artist's share of the proceeds.
- 6.4 **PURCHASING ARTWORKS**
Collectors do not proactively request to purchase artworks directly from artists when these are represented by a Dealer. When the artwork has not been consigned to any Dealer, Collectors follow the direction of the artist as to where to purchase the artwork. When unsure if an artwork is consigned to a Dealer, or when an artwork is shown in an exhibition (e.g., in a museum), Collectors endeavor to ask the artist from whom they prefer the artwork to be purchased. If an artwork is shown by a Dealer, Collectors endeavor to purchase the artwork from that Dealer.
- 6.5 **DISCLOSING RELATIONS AND INTERESTS WITH DEALERS**
If Collectors have influence on the artistic program of a Dealer, they ensure this is transparently disclosed in the execution of that program. If a Dealer loans an artwork to a Collector to be displayed to any audience, whether in an Institution, at their residency, or in any other context, the loan arrangement is disclosed to the audience. When Collectors are also Dealers, or they have a personal or financial interest in a Dealer, they should be aware of any actual, potential, or apparent conflict of interest that may arise. As a result, they promptly disclose and address such conflicts as appropriate.
- 6.6 **NOT ENGAGING IN MARKET MANIPULATION WITH DEALERS**
Collectors must not participate with Dealers in any behavior that is, or may be perceived to be, intended to manipulate the art market or related transactions, including secretive, collusive, or abusive practices, or any other conduct aimed, for example, to artificially inflate prices of artworks, or to exercise pressure on artists and Institutions.

6.7 SERVING ON ART FAIR COMMITTEES

When appointed as members of art fair selection committees, Collectors adhere to the standards in the section of the Code: "Serving as members of governance bodies."

7. INTERACTING WITH OTHER PROFESSIONALS

Collectors interact with curators, art historians, critics, other art workers, media professionals, and with the public (collectively: other professionals) transparently, responsibly, and fairly, never abusing their position of power to manipulate such professionals or to obtain undue advantage. Collectors communicate a positive image of collecting and advocate for the fair regulation of the art sector.

7.1 RESPECTFUL AND TRUTHFUL COMMUNICATION WITH THE PUBLIC

When interacting with the media, on social media, or with any public-facing content, Collectors communicate in a manner which is respectful, truthful, and transparent, fostering a safe environment for all, and are never condescending, overpromising, predatory, misleading, or dominating. In the context of these interactions, Collectors aim to acknowledge the position from which they speak and that when they speak, they are individually accountable for the image they portray of Collectors as a community.

7.2 RESPECTING THE INDEPENDENCE OF MEDIA PROFESSIONALS

When interacting with media professionals, including journalists and influencers, Collectors provide information that is accurate, fair, balanced, and up to date. Collectors do not provide media professionals with excessive hospitality or gifts, donations, or any other transfer of value or benefit, if these are or could be perceived as incentives or rewards to influence the independence of such media professionals. Exceptionally, limited modest hospitality can be offered in a working context (e.g., at press conferences), but only if aimed at allowing media professionals to freely exercise their professional duties in line with their professional standards.

7.3 FAIRLY CONTRACTING ART PROFESSIONALS FOR SERVICES

When engaging art professionals, curators, art historians, critics, or other art workers for services, including advisory services, Collectors compensate them fairly and reimburse any associated expenses, based on the honoraria standards existing in the sector. Collectors disclose these service relationships transparently, including their nature, content, and extent. Collectors do not provide such professionals with excessive hospitality or gifts, donations, or any other transfer of value or benefit, if these are or could be perceived as incentives or rewards to influence the independence of such professionals.

7.4 CREDITING PROFESSIONALS APPROPRIATELY

Collectors always mention and credit all professionals involved in projects (e.g., artists, photographers, curators, installation crew, funders, web designers, etc.), for example in publications and catalogs.

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