

## Preamble

The Standard Terms and Conditions Art take into account customary practices regarding the forwarding, transport and handling of artworks and antiques, objects shown in exhibitions, collections and art related objects (hereinafter named as "Object(s) of Art"). All orders, including those placed by private individuals (non-business persons), are exclusively undertaken on the basis of the following provisions. The Standard Terms and Conditions shall also apply to future contracts, even if the parties had not explicitly agreed again on their applicability. Any changes must be agreed in writing. **It is hereby emphasized that these Terms and Conditions may exclude and limit certain liabilities;** it is also emphasized that it is possible to agree on an extended liability and to insure higher risks.

### 1. Scope of application

1.1 The Terms and Conditions Art shall apply to services of all kind relating to the handling of Objects of Art, irrespective of whether they concern forwarding, freight, storage or other activities which usually are associated with the art business. This includes e.g. agreements, also in form of separate contracts on hanging up and taking down pictures, the installation and the dismantling of other Objects of Art, the packaging, loading, stowing, transport, unloading and the storage of Objects of Art, on the levying of amounts to be collected on delivery, on customs clearance, on courier services or on arranging of travel contracts and transport and property insurance coverage.

1.2 Without prior written agreement goods are excluded from the services that may cause risks for other goods, the environment or human beings. This in particular applies to hazardous goods in the meaning of the German Statute on Hazardous Goods ("Gefahrgutgesetz"). If such goods are handed over despite the above provisions the client shall be strictly liable (irrelevant of any negligence) for all damages which may occur.

1.3 The client shall agree with his contractual partners, e.g. the recipient or owner of any particular Object of Art, in favour of the contractor on the application of the Standard Terms and Conditions Art.

### 2. Information on the Objects of Art

2.1 The client shall inform the contractor in writing at the time of the placement of the order about addresses, symbols, numbers, amount, kind and content of packed items, size, weight, characteristics and the fair market value of the Objects of Art to be dealt with as well as about the available space at the place of collection and destination.

2.2 The client shall be liable for any incorrect or omitted information, even if not based on any negligence on his side, unless the incorrectness was obvious and known at the time of the placement of the order.

### 3. Liability

3.1 With respect to orders with international connections, the contractor is authorized to contract with third parties on the basis of their customary terms and conditions. **In the event of any damage caused by a foreign partner, the contractor shall only be liable in accordance with the terms and conditions agreed upon with the foreign partner.** The contractor shall only be liable if damage results from any negligence of diligence on the part of the contractor.

3.2 In all other respects the contractor is liable for any acts committed by his staff and by third parties instructed by the contractor as if such acts had been committed by the contractor. The contractor shall in case of negligence be liable for

- damages caused to the goods themselves (Güterschäden) i.e. loss of an Object of Art or damage caused to it;

- consequential damages (Güterfolgeschäden), i.e. pecuniary losses resulting from damage of the item;

- pure pecuniary loss (reiner Vermögensschaden) i.e. damages which do not relate to any damage of goods or any other damage of such kind.

In case of transport by road vehicle, by aircraft, railway or maritime transport, the contractor shall be liable on the basis of regulations applicable to the respective kind of transportation in so far as such regulations are mandatory.

### 4. Exclusion of liability

The contractor shall **not be liable** - on whatever legal ground - **if the damage results from instructions** given by the client or given by a third party who was authorized by the client or results from circumstances which could not be avoided despite the care and attention of a reasonably acting business person.

### 5. Limitation of Liability

As far as mandatory provisions (clause 3.2 above) are not opposed and subject to clause 5.7, **the liability of the contractor** - irrespective of the legal grounds - **shall be limited as follows:**

5.1 **Liability for damages to goods ("Güterschäden") is as per § 431 HGB (German commercial code) limited to 8.33 special drawing rights ("Sonderziehungsrechte") per kilogram gross of the damaged or lost Object of Art or to the amount of EUR 1.100,00 per cubic meter of the damaged or lost Object of Art, whichever amount is greater.**

5.2 **If the contractor fails to meet the agreed time of delivery**, to the exclusion of any further claims for damages, the contractor shall indemnify the client for any loss proven, such compensation, however, **being limited to the consideration agreed upon in the contract.**

The time of delivery has not been met if the good has not been delivered within the agreed deadline, or, should no time of delivery have been agreed upon, if the actual time of transportation exceeds what is reasonably appropriate for a diligent shipper.

5.3 If Objects of Art, which are subject to this agreement, are handed over to the recipient without the agreed amount being collected on delivery, the contractor shall be liable to the client for the damage resulting there from. Compensation is limited to the amount which should have been collected on delivery, however limited to a maximum amount of 50.000 €.

5.4 Liability for losses other than those pure pecuniary losses described in clauses 5.2 and 5.3 is limited to the consideration agreed in the contract.

5.5 In any event, liability - irrespective on what legal grounds - shall be limited to the value of the damaged Objects of Art, as indicated by the client.

5.6 For additional consideration, the client may agree in writing on higher maximum amounts than those

described in clauses 5.1 to 5.5 above, regarding damages, consequential damages as well as pure pecuniary damages.

The contractor shall provide insurance coverage for the Object of Art, e.g. covering transport or storage, only on the basis of a written agreement that provides details of the amount to be insured and the risks to be covered. In cases of doubt, the contractor shall decide on the type and extent of insurance coverage exercising reasonable discretion and shall conclude the insurance agreement on the basis of usual market conditions. For obtaining such insurance coverage the contractor shall be entitled to separate remuneration and reimbursement of expenses.

5.7 Any exclusion and limitation of liability as provided in clauses 4 and 5 of these Standard Terms and Conditions shall apply to any claim against the contractor regarding Objects of Art which are subject to a client's contract with the contractor. This exclusion and limitation of liability can also be invoked by the contractor's employees and third parties which are engaged by the contractor to carry out the contract, unless if they have caused the damage intentionally or by gross negligence.  
The limitations of liability shall not apply if the damage has been caused intentionally or due to gross negligence by any person in a senior position instructed by the contractor and/or due to intentional or grossly negligent violation of integral obligations of the contract. Intent or gross negligence must be proven by the claimant.

5.8 The client must exclude the contractor from any claims by third parties that may be brought against the contractor on the basis of any act or omission on the part of the client that may be contrary to the terms of the contract.

**6 Delivery, Complaints**

6.1 Unless otherwise agreed in writing, any delivery with the effect of full discharge can be made by handing over the Object of Art to any adult person belonging to the business or the household of the recipient who is present at the recipient's premises or at such other premises as agreed upon.

6.2 **If at the time of the delivery visible external damage to the Object of Art or to its packaging can be noticed**, the recipient shall make note of such damage indicating precisely the nature of the loss or damage on the delivery receipt. The delivery receipt must be signed by both parties at the time of delivery. The contractor must be notified in writing on the following day. Advice of damage that is not recognizable externally must be notified in writing without delay, however, not later than seven days following delivery. The non-observance of these time limits will result in the loss of any claim. The claimant is responsible for providing evidence in respect to the claim.

**7 Payment, Compensation, Statute of Limitation**

7.1 Invoices are payable immediately upon delivery. If the place of delivery is located in a country other than Germany, invoices are payable prior to transportation.

7.2 The client shall immediately on request relieve the contractor of all charges and contributions in connection with an accident ("Havarieeinschüsse"), customs tariffs, taxes and other expenses which are charged to the contractor in respect to the client's property.

7.3 **Compensation or withholding against contractual claims of the contractor shall only be admissible if the counter-claims of the client are payable and unchallenged.**

7.4 Due to all claims that the contractor may be entitled to against the client, the contractor has a right of lien and retention with respect to all goods and other assets in its possession for all claims against the client. The lien includes all accompanying documents.

7.5 **The Statute of Limitation of any claims, irrespective of the grounds, shall be one year.** The Statute of Limitation of the claim commences at the time the claimant becomes aware of the damage, at the latest, however, at the time of delivery of the Object of Art. In the event the Object of Art is not delivered, the Statute of Limitation commences at the end of the day on which the Object of Art should have been delivered.

**8. Final Provisions**

8.1 These Terms and Conditions and the entire legal relationship between the client and the contractor are subject to the laws of the Federal Republic of Germany.

8.2 Insofar as the client is considered a business person ("Kaufmann") as stipulated by the German Commercial Code ("Handelsgesetzbuch") or a legal entity ("juristische Person des öffentlichen Rechts) or separate estate under public law ("öffentlich-rechtliches Sondervermögen"), the place of performance and the exclusive place of jurisdiction for all disputes resulting directly or indirectly from this agreement shall be Berlin.

8.3 Should any provision of these Terms and Conditions Art or a provision in the context of other agreements between the partners be or become ineffectual, the validity of all remaining provisions or clauses shall not be affected.

**Statement of the client – signature:**

I have received and taken note of the Standard Terms and Conditions Art in respect to the placement of my order.

Signature: \_\_\_\_\_

Client's name  
in block letters: \_\_\_\_\_

Place: \_\_\_\_\_ Date: \_\_\_\_\_