

General Terms and Conditions

BOPart Kunsttransporte e.U.
(Status: February 2024)



Preamble

These General Terms and Conditions (GTC) comply with common trade usage and practice in the forwarding, shipment, and handling of art and antiques, exhibits, entire collections, and similar objects (art objects). Services ordered by traders or non-traders shall be performed by BOPart exclusively based on the following GTC and the GTC of Austrian Freight Forwarders (Allgemeine österreichische Spediteursbedingungen – AÖSp). These GTC also apply to future contracts and orders, even if they are not expressly agreed upon again. Deviations from this GTC must be made in writing. Reference is made to the exclusions and limitations of liability, as well as to the possibilities of agreeing and insuring higher scopes of cover.

1. Scope of Application

1.1. This GTC applies to all types of transactions in relation to the handling of art objects, including consignment, transportation, storage, and any other services as are customary in the forwarding of art objects; no matter whether they relate to forwarding, freight, storage, or other transactions (transactions) typically associated with the art sector.

This furthermore includes the contracting of other services - also by a separate agreement - such as the hanging up and taking down of paintings, the mounting and dismounting of other art objects, the packing, loading, stowing, shipping, unloading, and storage of art objects, on the collection of cash on delivery, on customs treatments, on courier services or the brokerage of travel contracts and the provision of transport and property insurance.

1.2. Without a prior written agreement, goods that may represent a risk to other goods, the environment, or persons, in particular hazardous goods, are excluded from the services. If these are nevertheless handed over to BOPart, the customer shall be liable for damages of any kind, regardless of fault.

1.3. The customer undertakes to agree on these GTC also with his contractual partner, for example, the recipient or owner of an art object, in favor of BOPart.

2. Information About the Art Objects

2.1. The customer must inform BOPart in writing about the consignee's address, the number, kind, and content of the packages, marking, and numbering of the freight items as well as about the dimensions, weight, characteristics, the actual value of the art objects consigned and the space conditions at the places of pickup and delivery.

2.2. Incorrect or omitted information is the responsibility of the customer, regardless of negligence or fault, unless the incorrectness is evident and known to BOPart upon receipt of the order

3. Liability

3.1. In the case of orders of any kind, BOPart is liable only if and to the extent that the damage is due to a culpable infringement of BOPart's duty of care. BOPart is liable exclusively for violation of duties of care under Austrian law.

3.2. Furthermore, BOPart is liable for the conduct of BOPart employees, and third parties engaged by BOPart for performance, as for its conduct. BOPart is liable exclusively for the violation of duties of care under Austrian law.

3.3. BOPart is liable exclusively for damage caused to goods, i.e., loss of and damage to the art object that is the subject of the contract. In the case of road or air freight, liability shall be following the regulations applicable to these means of transport, insofar as these are compulsory applicable.

4. Exclusions of Liability

BOPart is exempt from liability if and in so far as damage is caused because of instructions issued by the customer or customer's agent outside the responsibility of BOPart, or by circumstances beyond the control of BOPart which could not have been prevented by due diligence.

5. Limitation of Liability

Insofar as mandatory provisions (clause 3.3.) do not conflict with this, the liability of BOPart - irrespective of the legal grounds - is limited as follows:

5.1. Liability for damage to goods is limited to €8.33 Special Drawing Rights per kilogram gross of the damaged or lost art object according to CMR when shipped by road, or to €16.67 according to the Warsaw Convention when shipped by air.

5.2. If the delivery period is exceeded, BOPart shall - without further compensation - pay compensation for the proven and culpable damage up to the amount of the contractually agreed fee. The delivery period is exceeded if the goods have not been delivered within the agreed period or, if no period has been agreed, if the actual transport time, considering the circumstances, exceeds the period that can reasonably be expected of a diligent carrier.

5.3. If art objects which are the subject of the contract are delivered to the recipient without collection of the cash on delivery agreed upon in the contract, BOPart shall be liable to the principal for the resulting damage, but only up to the amount of the cash on delivery.

5.4. In either case, the liability - no matter on which legal ground - is limited to the value of the objects of art, which are subject to damage, as stated by the customer.

6. Delivery, Complaint

6.1. Unless otherwise agreed in writing, the delivery may be made with discharging effect to any adult person belonging to the business or household and present on the recipient's premises or in the contractually agreed place of delivery.

6.2. If any damage to the art object is visible upon delivery, the consignee must record it in a receipt to be signed by both parties, stating the specific nature of the loss or damage. The consignee must report any damage that is not externally visible in writing immediately - no later than seven days after delivery. The burden of proof shall be on the claimant.

7. Payment, Set-Off, Prescription

7.1. Invoices are due for payment immediately and without deductions. Default in payment shall occur, without the need for a reminder or other preconditions, at the latest 14 days after receipt of the invoice. In case of default, BOPart is entitled to charge interest in the amount of 10% from the date of default and the usual local charges. BOPart reserves the right to claim higher damages.

7.2. The customer must release BOPart immediately from freight claims, average contributions or contributions, customs duties, taxes, and other levies which are imposed on BOPart, as the person authorized to dispose of or as the owner of third-party goods.

7.3. Offsetting against claims of BOPart is only permitted with due and undisputed counterclaims.

7.4. BOPart has a right of lien and a right of retention on the art objects, goods, or other valuables in its custody for all claims, whether due or not, to which it is entitled against the Customer arising from the performance of work subject to these GTC. The lien extends to the accompanying documents. If the customer is in default, BOPart may, after having warned the customer to sell, sell as much of the goods and values in its possession as it deems necessary to satisfy the debt, without further formalities. The informal sale may also take place if the customer cannot be identified despite reasonable inquiries. For the lien or self-help sale, BOPart may charge the usual sales commission from the gross proceeds.

7.5. Claims against BOPart, no matter what legal grounds, are subject to a limitation period of one year. The limitation period begins with the knowledge of the entitled party of the damage, at the latest, however, with the delivery of the art object. If the goods have not been delivered, the limitation period shall commence at the end of the day on which the goods should have been delivered.

8. Final Provisions

8.1. All legal relations between the customer, consignee, or claimant shall be regulated by Austrian law.

8.2 Insofar as the customer is not a consumer in the context of the Austrian Consumer Protection Act, Vienna shall be the place of performance and exclusive place of jurisdiction for all disputes arising from the contractual relationship, including indirect disputes.

8.3. Should any term of these GTC or any clause within the scope of other agreements be or become invalid, the validity of all remaining terms or agreements shall not be affected thereby.

CUSTOMER'S STATEMENT — SIGNATURE:

I hereby acknowledge receipt of the GTC and take note of them.

Place/ Date

Signature