

GTC – Art

Preamble

The General Terms and Conditions for Art, hereinafter referred to as the GTC for Art, take into account the customary practices in connection with the forwarding, transport and handling of art and antiques, exhibition items, collections, collectors' items and related items (hereinafter collectively referred to as art objects). Unless otherwise specified below, these General Terms and Conditions for Art also apply to contracts with consumers (non-business persons). Insofar as consumers are not contractual partners, the General Terms and Conditions for Art also apply to future contracts without the need for further agreement.

1. Scope of application

1.1 The General Terms and Conditions for Art apply to all types of orders relating to the handling of art objects, regardless of whether they concern forwarding, freight, storage or other transactions that are customary in the art sector. This also includes agreements as independent contracts for hanging and taking down pictures, setting up and dismantling other art objects, packing, loading, stowing, transporting, unloading, unpacking and storing art objects, the collection of cash on delivery payments, customs clearance, courier services or the arrangement and procurement of transport and property insurance.

2. Information provided by the client

2.1 When placing the order, the client must provide DB Schenker with written information about the address, number, type and contents of the art objects, dimensions, weights, characteristics and actual value, as well as the local conditions at the collection and destination points of the art object.

2.2 Incorrect or omitted information are borne by the client, even if he is not at fault, unless the inaccuracy was obvious to DB Schenker and/or known to DB Schenker when the order was placed. DB Schenker is not liable for damage resulting from incorrect or incomplete information provided by the client.

3. Liability

3.1 DB Schenker is liable for damage to goods, i.e. loss and damage to the object that is the subject of the contract, consequential damage to goods, i.e. financial losses resulting from damage to goods, pure financial losses, i.e. those not related to damage to goods or other property damage, insofar as DB Schenker or its vicarious agents are at fault. **In the case of transport by motor vehicle on the road, by aeroplane, railway, inland waterway vessel or seagoing vessel, liability is governed by the regulations applicable to these modes of transport, insofar as these are mandatory.** (CMR, MU, WA, CIM, CMNI, Hague Visby Rules)

3.2 For international orders, DB Schenker is authorised to agree on the usual terms and conditions of business when using service providers. **If and to the extent that damage is caused by a foreign service provider, liability is determined in accordance with the contractual or mandatory statutory provisions agreed with these foreign companies.** DB Schenker is only liable to a greater extent if and to the extent that the damage is based on a culpable breach of its own duty of care.

3.3 The parties agree that all activities beyond the mere transport of goods, such as hanging and taking down pictures, assembling and dismantling special art objects, packing, etc. (hereinafter referred to as 'work activities') are governed by the provisions of the law on contracts for work and services. The liability of DB Schenker or its vicarious agents or assistants is excluded in cases of simple negligence in the performance of work activities, provided that this does not constitute a breach of so-called cardinal obligations. In such cases, liability is limited to the amount of typical, foreseeable, insurable damage. This limitation of liability in terms of scope and amount does not apply to injury to life, limb or health.

3.4 The parties agree that in the event of the use of subcontractors who are mandatory requirements of the client, liability is limited to the liability stated by these subcontractors in their general terms and conditions.

4. Disclaimer

DB Schenker is exempt from liability – regardless of the legal basis – if and to the extent that the damage was caused by an instruction from the client or a person appointed by the client and by circumstances that DB Schenker could not avert with the diligence of a prudent businessman.

5. Limitations of liability

Unless mandatory provisions (e.g. Section 3.1 (2) of the General Terms and Conditions for Art) dictate otherwise, DB Schenker is liable as follows, regardless of the legal basis:

5.1 Liability for damage to goods is limited to 8.33 Special Drawing Rights per kilogram gross of the damaged or lost item (Section 431 of the German Commercial Code (HGB)), up to a maximum of EUR 2,000 per item.

5.2 If the delivery period is exceeded, DB Schenker has to pay compensation for the proven damage up to the amount of the contractually agreed freight charge, without further compensation.

5.3 For pure financial losses other than those specified in Section 5.2 of these General Terms and Conditions for Art, liability is limited to three times the amount that would be payable in the event of loss (Section 433 of the German Commercial Code (HGB)) or, in the case of cash on delivery, to the cash on delivery amount.

5.4 In any case, liability – regardless of the legal basis – is limited to the value of the object affected by the damage as specified by the client.

5.5 The client may agree in writing in the contract to stipulate higher amounts than the maximum amounts specified in clauses 5.1 to 5.4 of these General Terms and Conditions for Art in return for a separate fee. DB Schenker will arrange insurance for the items, e.g. transport or storage insurance, only on the basis of a written order specifying the sum insured and the risks to be covered. In case of doubt, DB Schenker will decide on the type and scope of insurance at its own discretion and take out insurance at standard market conditions in return for a special fee and reimbursement of expenses.

5.6 The liability provisions set out in sections 3 to 5 of the General Terms and Conditions for Art apply to any claim against DB Schenker that is the subject of the order placed with DB Schenker, regardless of the legal basis on which the claim is based. DB Schenker employees and persons for whom DB Schenker is liable may also invoke these provisions, unless they caused the damage through wilful intent or gross negligence. The limitations of liability do not apply if damage was caused by intent or gross negligence on the part of vicarious agents in a managerial position and/or by intentional or grossly negligent breach of essential contractual obligations; the claimant is responsible for proving intent or gross negligence. The provision in Section 5.6 is not to be deemed to be an agreement on other maximum liability amounts within the meaning of Article 25 of the Montreal Convention.

5.7 The client indemnifies DB Schenker against any third-party claims asserted on the basis of an action or omission by the client that is in breach of contract.

6. Delivery / Complaints

6.1 If the client is an entrepreneur and unless otherwise agreed in writing, delivery may be made with discharging effect to any person belonging to the business or household, present on the recipient's premises or in the contractually agreed reception areas, who appears to be of legal age, unless there are justified doubts as to their authorisation to receive the goods.

6.2 If damage to the object is visible upon delivery or if there is a shortage, the recipient must make the corresponding deductions on the freight documents. The recipient must notify DB Schenker in writing of any damage that is not visible externally immediately, but no later than 7 days after delivery.

7. Payment agreements, lien, offsetting, limitation period

7.1 Invoices are due for payment immediately without deduction.

7.2 The client is obliged to indemnify DB Schenker immediately upon request against any freight charges, general average contributions, customs duties, taxes and other levies imposed on DB Schenker, in particular as the authorised representative or owner of third-party goods.

7.3 DB Schenker's rights of lien and retention are governed by the statutory provisions.

7.4 With regard to contractual claims subject to this agreement and related non-contractual claims, offsetting or retention is only permissible with due counterclaims that are not subject to objection.

7.5 Unless otherwise required by law, the statutory provisions pursuant to Section 439 of the German Commercial Code (HGB) apply with regard to the statute of limitations. If services rendered are subject to the law governing contracts for work and services, claims will become time-barred within three years of the end of the year in which the claim arose and the entitled party became aware of it.

8. Compliance

8.1 The parties agree that the sale may be subject to restrictions on the export, import, re-export and transfer of goods and/or services in accordance with the relevant provisions of foreign trade law; these include, for example, EU, German and US laws and regulations ('Foreign Trade Law').

8.2 Each party guarantees and warrants that, in fulfilling its obligations under this contract, it will comply with all applicable provisions of foreign trade law in their currently valid version.

8.3 It is the client's responsibility to determine whether their transactions are subject to foreign trade law. The client guarantees and warrants that their shipments comply with all applicable provisions of foreign trade law. The client may not instruct Schenker to provide prohibited services involving countries or persons subject to foreign trade restrictions if the transactions underlying these services are subject to foreign trade law. If necessary, the client will get or arrange for all licences, approvals, permits and/or exemptions needed to comply with foreign trade law and give Schenker the right proof.

8.4 Schenker reserves the right to suspend the provision of services without any liability if these services would violate the applicable provisions of foreign trade law.

8.5 The client acknowledges that Schenker is not obliged to provide any services in connection with internal repression and will not do so. The client further acknowledges that Schenker is not obliged to provide services in connection with or for military goods.

8.6 This clause only applies insofar as it does not violate Article 5 of Regulation (EU) No. 2271/96 or Section 7 of the Foreign Trade and Payments Ordinance.

9. Force majeure

9.1 The party affected by a case of force majeure is not responsible for the resulting delay or impossibility.

9.2 Force majeure within the meaning of this contract is defined as all unforeseeable events or events which, even if they were foreseeable, are beyond the control of the contracting parties and whose effects on the fulfilment of the contract cannot be prevented by reasonable efforts on the part of the contracting parties. These include, among others, energy crises, acts of God, closure of public roads, war (declared or undeclared), war-like conditions, riots, revolutions, rebellions, military or civil coups, uprisings, tumult, riots, blockades, embargoes, piracy, government orders, sabotage, strikes, go-slows, lockouts, failures or restrictions in electronic data exchange caused by third parties, cybercrime by third parties, acts of terrorism, piracy, epidemics, pandemics, quarantine, fire, floods, storm surges, hurricanes, typhoons or other severe weather events of a catastrophic nature, earthquakes, landslides, lightning strikes, shipwrecks, aircraft crashes, accidents, serious transport accidents.

9.3 If a case of force majeure occurs, the party affected will notify the other party in writing of the incident immediately after becoming aware of the essential circumstances. In doing so, it must describe the event in detail and indicate which contractual obligations it is likely to be unable to fulfil as a result, or only with a delay.

9.4 In the event of force majeure, both parties are obliged to contribute to limiting and mitigating damage.

10. Data protection

Both parties comply with the requirements of the applicable data protection regulations. The contractor obliges its employees to comply with the relevant legal provisions for the protection of personal data and trains its employees accordingly. If the applicable data protection law contains specific principles that are mandatory for the provision of the service (e.g. compliance with data protection-friendly implementation of technical requirements through privacy by design or privacy by default), the parties place particular emphasis on practical implementation.

If the performance of a service by the contractor involves activities for which the conclusion of a processing contract is required in accordance with the applicable data protection regulations (e.g. within the meaning of Article 28 of the European General Data Protection Regulation (GDPR)), such a contract must be negotiated and concluded between the parties. Personal data must be treated confidentially by the contractor in all cases.

For more information on how we handle your personal data, please refer to our [privacy](#)

11. Final provisions

11.1 The law of the Federal Republic of Germany applies exclusively, excluding the UN Convention on Contracts for the International Sale of Goods (CISG).

11.2 Unless mandatory statutory provisions stipulate otherwise, the place of jurisdiction and place of performance is the location of the DB Schenker branch to which the order is addressed. In cases where the client is a private individual, their place of residence is the place of jurisdiction.

11.3 Agreements, amendments, supplements and subsidiary agreements must be

made in writing. This also applies to any agreement that seeks to invalidate this written form clause in whole or in part, either generally or in individual cases

11.4 Should any of the above clauses be or become legally invalid, this will not affect these General Terms and Conditions for Art or any individual agreement in any other respect. The parties will replace the invalid clause with one that comes as close as possible to the original intention in economic and legal terms.

11.5 Should the General Terms and Conditions for Art or the respective individual agreement contain a loophole, the parties will close this loophole by means of an agreement that they would have made if they had been aware of the existence of the loophole at the time the contract was concluded.