

ART SHIPPERS SPRL – [WWW.ARTSHIPPERS.BE](http://WWW.ARTSHIPPERS.BE)  
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## **GENERAL TERMS AND CONDITIONS**

### **ARTICLE 1: LIABILITY**

In view of the fact that objects entrusted to Art Shippers SPRL are fragile and that all their features cannot be verified nor possible defects identified at the moment of loading, Art Shippers SPRL accepts no liability - except where expressly and legally provided for – irrespective of the legal qualification of the work undertaken (transport, wrapping, storage, service, etc.).

Consequently, the burden of proof of any liability on the part of Art Shippers SPRL lies with the Customer in respect of any fault as well as any damage and the scope of such damage.

With a view to balancing the parties' respective rights and obligations, there shall be no presumption of liability on the part of the Customer in the event of any damage sustained by Art Shippers SPRL.

### **ARTICLE 2: LIMIT OF LIABILITY**

When the work undertaken by Art Shippers SPRL is subject in whole or in part to a compulsory transport convention provision such as the CMR Convention on the Contract for the International Carriage of Goods by Road of 19 May 1956, or the Warsaw Convention on International Carriage by Air of 12 October 1929, or the Montreal Convention on International Carriage by Air of 28 May 1999, Art Shippers SPRL's liability shall be limited to the maximum provided for by the convention which applies at the moment when the damage occurs.

If Art Shippers SPRL's liability is invoked while none of the international conventions that limit its liability apply compulsorily, Art Shippers's liability shall extend to the maximum amount provided for by the Montreal Convention on International Carriage by Air of 28 May

1999, namely in its present version 17 special drawing rights, or around EUR 20 per kilo of lost or damaged weight, notwithstanding the cause of the damage or the severity of the misconduct, and this even in the event of Art Shippers SPRL's gross misconduct or its employees' gross misconduct or fraud.

The limits of liability indicated above shall apply to all forms of possible damage, either loss, harm, delay or any other damage.

Any loss or damage other than that directly sustained by objects entrusted to Art Shippers SPRL will never be compensated, and notably consequential financial loss or damage, loss of contract, loss of or damage to reputation, depreciation of a collection to which the lost or damaged object pertains, indirect loss or damage, etc., whatever the cause and the severity of the alleged violation.

With a view to balancing the parties' respective rights and obligations, the Customer will not be liable towards Art Shippers SPRL, in the event of the Customer's fault, beyond the limits of liability described above.

### ARTICLE 3: INSURANCE

Since the abovementioned limits of liability are generally much lower than the value of the objects or works, the Customers' attention is drawn in particular to the absolute need to insure the objects entrusted to us. For instance, the CMR Convention provides for a limit of 8.33 special drawing rights per kilo, i.e. about EUR 10 per kilo, the Warsaw Convention for a limit of EUR 20.58 and the Montreal Convention for a limit of roughly EUR 20.

Customers' attention is also drawn to the fact that they should try to avoid duplicate payment of insurance premiums: the premiums which the Customer pays and the premiums which we pay under our liability policies. Such duplication increases the total cost of operations and can lead to expensive and tiresome recourse.

If the Customer has not arranged insurance cover for the work entrusted to us, we highly recommend that he has his objects insured under the open cover policy which Art Shippers

SPRL has contracted with its own insurers. In the event of loss or damage, the Customer will then be able to submit a claim to or through these highly reputable companies.

If the Customer prefers to select his own insurance cover or to contract a specific insurance policy with the company of his choice, he undertakes either to obtain from his insurance company a waiver against Art Shippers SPRL beyond the limit provided for by one of the abovementioned Conventions, or to produce to Art Shippers an attest provided by the Customer's insurance company confirming that Art Shippers SPRL is co-insured under the Customer's policy.

If, in spite of the above recommendations, the Customer deems it judicious not to take out an insurance policy, notwithstanding the risk implied by such a choice, the Customer acknowledges being his own insurance agent and waives any and all recourse against Art Shippers SPRL beyond the abovementioned limits.

This waiver applies to the Customer's insurance company as well as to the uninsured Customer and covers all loss and damage, whatever the cause, the severity of the fault – even Art Shippers SPRL' gross personal misconduct or its employees' gross misconduct or fraud.

#### ARTICLE 4: LOADING - CONDITION REPORT

As the verification of the objects loaded is often carried out under conditions that are not optimal (due to lighting, the absence of UV devices, short time available, etc.) the Customer acknowledges that the loading by Art Shippers, even in the absence of reservations, only refers to the superficial appearance of the objects entrusted.

The same applies to the documents entitled "*condition reports*".

Moreover, the contents of the "*condition reports*" does not carry any weight of evidence toward Art Shippers when such a document is drafted before – and not at the moment of – the effective loading.

#### ARTICLE 5: RESERVATIONS AT THE END OF THE ASSIGNMENT

The Customer is entitled to express reservations in the event of loss, harm or delay.

Without prejudicing any compulsory legal provisions which may apply, reservations relating to loss, visible harm or delay must, in order to be valid, be written on the transport or assignment execution document at the moment when Art Shippers' assignment ends.

In the event of partial loss or damage that is not visible, the reservation shall be expressed in writing within three days after the end of Art Shipper's assignment. Moreover, the Customer must then prove that the alleged loss or damage occurred before the end of the assignment, without prejudice to Article 1 above.

#### ARTICLE 6: CANCELLATION OF ASSIGNMENT

If the Customer cancels his order before the beginning of the assignment, he shall be required to reimburse to Art Shippers SPRL the expenses incurred as well as the compensation provided for in Section 1794 of the Belgian Civil Code (*Code civil*), which Art Shippers SPRL reserves the right to claim.

#### ARTICLE 7: PAYMENT

Unless otherwise agreed in writing, our invoices are payable upon issue.

In compliance with the Belgian Act of 2 August 2002 on arrears of payment in commercial transactions, unpaid amounts bear interest on overdue payment by operation of law from the due date, at the rate provided for under Section 5 of said Act, i.e. interest at the key rate increased by 7 percentage points rounded up to the higher percentage point, according to the advice published periodically by the Finance Minister in the Belgian "Moniteur". In addition, the Customer shall be required to pay recovery costs, such as provided for by this Act, which will be reasonable but not lower than 10 % of the principal debt.

The same provisions apply to private Customers.

ARTICLE 8: RIGHT TO RETAIN

It is customary for the objects which are entrusted for transport and/or storage and/or wrapping to be left as security for all debts of the Customer toward Art Shippers SPRL, including those relating to previous assignment or other objects. Art Shippers SPRL reserves the right to exercise its right to retain in respect of the objects thus left as security.

ARTICLE 9: OPPOSABILITY AND VALIDITY OF THESE GENERAL TERMS AND CONDITIONS

The Customer warrants to Art Shippers that he accepts the above general terms and conditions, and that any third party, such as a non contracting owner, who may have an interest in the correct execution of the assignment, accepts them as well.

If any of these terms and conditions should be declared null and void, such nullity shall not extend to any other clauses and the parties expressly request the Court which would pronounce nullity to have the clause applied to the full extent within the limits of the law so as to comply with the common will (*volonté commune*) as expressed in these terms and conditions.

ARTICLE 10: APPLICABLE LAW AND TERRITORIAL COMPETENCE

This contract shall be governed by Belgian law.

Any lawsuit, even in the event of multiple defendants or in the event of a warranty being invoked, shall be submitted to the exclusive jurisdiction of the competent court in Brussels.

If, in spite of these provisions, a foreign jurisdiction should claim its territorial competence, the parties shall expressly invite this jurisdiction to apply Belgian law, including applicable Belgian doctrine and jurisprudence.