

# GENERAL TERMS AND CONDITIONS FOR THE STORAGE OF OBJECTS OF ART (01.01.2015)

These general terms and conditions (referred to as "GTC") govern the rights and obligations of the consignor, as well as of Welti-Furrer Fine Art AG (referred to as "WF"), with regard to the storage of objects of art and antiquities (referred to as "objects of art").

## 1 PREFACE

- 1.1. WF undertakes the storage and safe-keeping of objects of art according to the provisions set forth below and in return for payment of the remuneration agreed upon.
- 1.2. The storage contract which has been signed by both parties, as well as these GTC, serve as a basis for the storage of objects of art. In the event of contradiction, the terms of the storage contract shall prevail.
- 1.3. In addition, the provisions of the Swiss Code of Obligations (CO) on the contract of bailment (articles 472 et seq. CO) shall apply.
- 1.4. These GTC shall not be applicable for the transport of the objects of art outside the storage facility. In this context, reference is made to the special 'General Terms and Conditions of Transport for Objects of Art'.

## 2 CONCLUSION OF THE CONTRACT

- 2.1. WF has the right to refuse the storage of objects of art without the obligation of stating the reasons for such refusal. This refusal must occur at the latest immediately before the acceptance of the objects of art. Under no circumstances shall WF be held liable for damages resulting from such refusal, unless written covenants to this effect have been made by WF in writing in the storage contract.
- 2.2. The consignor is obliged to provide WF with complete and correct data on the objects of art to be stored. This includes, but is not limited to quantity, declaration, condition, hazardous materials, estimated or current market value, ownership and third party entitlements. WF is to be notified in writing of any changes thereto during the term of storage. In addition, the consignor shall inform WF in writing of any change in his or her domicile.
- 2.3. For WF, as a general rule, the data set forth in the storage contract are binding. WF is not obliged, but is entitled, to check said data. WF has the right to make random checks, for which WF may open or destroy the packing. In the event of the data made by the consignor being incomplete or incorrect at the beginning or during the course of the storage, any liability of WF shall be reduced (cf. §§ 7.2 and 7.4[h]).

## 3 EXECUTION

- 3.1. WF will inspect only the outside condition, as well as the quantity. Any inspections of the objects of art beyond the foregoing to which WF is entitled to, have no effect on WF's liability.
- 3.2. The objects of art will only be weighed if the consignor expressly requires such weighing, if it is necessary for customs procedures or if WF deems to be necessary for reasons of verification.
- 3.3. WF will issue the consignor a storage receipt which when signed becomes binding for both parties. The storage receipt does not have the character of a security, which means that it can neither be used as collateral, pledged nor assigned to others.
- 3.4. WF undertakes the storage and removal from storage of the objects of art. WF will ensure to the extent possible that no truck demurrage charges are to be paid, but is generally not obliged to provide for in- and outstorage within specified time periods and assumes no liability for damages which occur during an eventual waiting time.
- 3.5. With reservation to a special agreement, WF is not obliged, but is entitled to pay freight fees, customs duties, taxes etc. for the account of the consignor. In this regard WF is to be notified in writing of the data provided by the consignor. The consignor is liable for all damages resulting from incorrect declaration, including taxes, customs duties, fines and penalties. The consignor shall recompense WF for its expenditures, including deferred payment interest and a processing fee.

## 4 REMOVAL FROM STORAGE AND ASSIGNMENT

- 4.1. The request for removal from storage by the consignor must be made in writing, and must contain the following data:
  - (a) Storage number, code, quantity, type of packing, contents and declared value;
  - (b) Recipient, type of handover, as well as a separate order for the transport;
  - (c) Instructions relating to eventual inspections of the objects of art.
- 4.2. The consignor in whose name the objects of art are put into storage is designated as the party entitled to dispose of the objects of art. Moreover, WF has the right to regard the consignor of the objects of art as authorized to dispose of. However, WF is entitled to demand additional legitimation, or to hand over the objects of art without the presenting of the storage receipt if verification of entitlement of disposal is presented in another fashion.
- 4.3. Loss of the storage receipt is to be notified to WF immediately for the purpose of issuing a duplicate and revocation of the first storage receipt.
- 4.4. WF is not obliged to effect even partial removal from storage of the stored objects of art until all of WF's requirements resulting from the storage contract or any other agreement between the parties have been fulfilled.
- 4.5. Partial removal from storage will only be made against a corresponding delivery note. In the event of individual pieces being requisitioned, the consignor shall reimburse WF separately for the rearrangement, the opening of the containers and any other related work.
- 4.6. Complete dissolution of the storage is only admissible against return of the storage receipt. The consignor will be notified of the removal from storage in writing.
- 4.7. For the removal from storage, WF shall be granted enough time to execute the removal from storage correctly.
- 4.8. WF is to be advised in writing of the assignment (wholly or partially) of the property to third parties. WF will then issue to the third party a new storage receipt and will notify the assignee in writing. Up to that moment, the consignor remains entitled and obligated. The right to collateral and retention claims of WF for obligations of the former as well as those of the subsequent entitled party remains in effect. If acceptance of the assigned property is refused, the storage contract with the original consignor remain in force. The original consignor shall bear all costs incurred to WF by the assignment in joint and several liability with the party entitled to dispose of the objects of art.
- 4.9. On the acceptance of the objects of art, the party storing said objects or the entitled recipient thereof shall inspect the condition and quantity of said objects and immediately any defects that are externally apparent and those which are not externally apparent at the latest within a period of 8 days after the handover. If no defects are reported within these terms, all claims against WF are forfeited.
- 4.10. In addition, all claims against WF prescribe within one year after the delivery of the objects of art to the recipient entitled to dispose of said objects.

## 5 SALES OF STORED MATERIALS / INSPECTION

- 5.1. WF may accept commissions to sell the stored objects of art and show them to interested parties. Without contradictory written agreement, WF is entitled to set the pricing at its own discretion.
- 5.2. For this activity, WF receives a commission on the gross revenue which is to be determined accordingly. If this commission does not fully cover the expenses of WF for the inspection and sale of the objects of art, such uncovered costs are to be additionally remunerated by the consignor.
- 5.3. Each inspection of the objects of art may only be allowed based on the consignor's order indicating the inspecting persons. WF is entitled to require the identification of an inspecting person. The expenses thereby incurred will be charged to the consignor separately.
- 5.4. The consignor has access to the storage facility only during business hours after adequate prior notice and in the attendance of WF and against presentation of the storage receipt.

## 6 STORAGE FEE / RIGHT OF RETENTION AND COLLATERAL

- 6.1. The storage fee is based upon space requirement and surcharge on the value and will be calculated on a monthly basis. Each beginning month will be charged in full. Special work caused by virtue of the stored objects or performed at the request of the consignor will be charged to the account of consignor separately.
- 6.2. Normally, the storage fee is payable quarterly. On partial removals from storage or additional storages, the new storage fee will be set determined at the discretion of WF.
- 6.3. In accordance with article 485(3) CO, WF has a right of retention on the stored objects of art pursuant to articles 895 et seq. of the Civil Code.
- 6.4. Moreover, WF has a contractual lien on the objects of art which are either in its possession or WF is entitled to dispose of for the purpose of covering all WF's claims resulting from any legal title. If the consignor has been in arrears in the payment of the storage fees for more than a year, WF is entitled to sell the stored objects on the open market. If any doubt arises as to whether the objects of art will cover WF's outstanding fees, WF is entitled to sell the objects of art before the aforementioned term of one year has

- 6.5. elapsed.  
In such a case, WF shall notify the consignor by registered letter to the last-known address. If the consignor does not respond to this last reminder within a period of 20 days, WF can immediately proceed to sell the objects on the open market.
- 6.6. The consignor shall be liable for any negative balance; in the event of a surplus balance and if the balance could not be transferred to the consignor, such balance will be credited as a loan without interest on the account of the consignor.
- 6.7. The assignment of the objects of art in the storage facility to third parties has no effect on the right of collateral and retention claims of WF against the assignor.
- 6.8. If the consignor claims defects of the objects of art for which he intends to hold WF liable, WF is entitled to retain the objects of art until the issue has been settled without the consignor being entitled to file a claim for damages.
- 6.9. WF is not liable for claims for damages due to justified non-removal from storage of objects of art.
- 6.10. The consignor expressly renounces on an off-setting of WF's claims for storage fees and compensation for eventual additional work with any and all counter-claims.
- 6.11. If the local rates or local commercial tariffs change after the conclusion of the contract, the storage fees will change correspondingly.

## 7 LIABILITY

- 7.1. WF undertakes to store the objects in conformity with the contract and with due skill, care and diligence.
- 7.2. WF is liable only for damages which have verifiably been caused by WF with wilful intent or gross negligence. In the event of data not being available on the value, or in the event of the available data being incorrect, the value will be estimated by WF, but in any case is limited to a maximum total of CHF 50,000.--.
- 7.3. In other cases such as transport, shipping and customs clearance WF is liable only for careful selection and instruction of the assisting person.
- 7.4. Moreover, WF's liability is excluded in the following cases:
  - (a) for damages caused by force majeure, strikes, events relating to war and similar events;
  - (b) for objects of art which are fragile and packed inappropriately;
  - (c) for objects which are handed over unpacked that are subject to the risk of loss or damage such as e.g. miniatures, small carpets etc.;
  - (d) for the contents of boxes, baskets, cabinets, drawers or other containers, unless WF has a special listing, the packing was done or inspected by WF and a special written agreement to this effect is in force;
  - (e) for gluing and veneering solvents, scorings, dents in furniture, breakage of disintegrating furniture, as well as for the consequences of temperature fluctuations or the influence of moisture;
  - (f) for rust, mouse, rat and moth damages, wood worm, mildew;
  - (g) for internal damages of objects with an intact external appearance;
  - (h) for the consequences of false data;
  - (i) for indirect damages, consequential damages, deferral damages, loss of profit, claims for reduction in value, non-compliance penalties, etc.;
  - (j) for circumstances for which WF, despite the exercising of due diligence, was not able to influence and the consequences of which it was not able to avert.
- 7.5. The due diligence of WF extends only to the storage of objects of art in suitable storage facilities but not to special precautionary measures and the treatment of the objects of art during the storage, unless an express written agreement has been made in this regard.
- 7.6. In any case, the liability of WF starts at the earliest with the storage and ends at the latest with the removal from storage of the objects of art. If the consignor performs the storage or the removal from storage him- or herself, WF is exempted from any and all liability for such actions, as well as from any liability until after or starting from this moment.
- 7.7. The consignor is liable for any and all damages which incur as a result of the storage.

## 8 INSURANCE

- 8.1. WF concludes an insurance contract for the stored objects of art only if requested in writing by the party storing the objects. The value declared by the storing party is considered as the insurance value. In the event of damage this value must be verified by the beneficiary. The pertaining insurance premiums will be charged to the consignor.
- 8.2. In the event of a change in the objects of art in terms of quantity or value, at the written request of the consignor, the insurance sum will be adjusted accordingly. Any disadvantages resulting from an adjustment of the value which was neither reported nor reported on time to WF shall be borne solely by the consignor.
- 8.3. If the consignor does not issue to WF an order to conclude an insurance policy, WF proceeds on the assumption that the object of art is adequately insured by the consignor or by a third party. In this case, in the event of any damage WF is exempted from any and all liability.
- 8.4. In each case of damage, the consignor is only entitled to indemnity to the extent that on the basis of the respective insurance conditions, the insurance company pays damages with deduction of any claim to which WF is entitled against the consignor. Any further liability of WF which acts merely as a mediator between the consignor and the insurance company is therewith fully excluded.

## 9 TERMINATION

- 9.1. If the storage contract is concluded for a specific term, it will be terminated when the term elapses.
- 9.2. If the storage contract is concluded for an indefinite period, with reservation of § 9.3 it can be terminated by the consignor at any time with a notice period of 48 hours, and by WF in writing to the last-advised address of the consignor with a notice period of one month.
- 9.3. In addition, the storage contract can be dissolved prematurely with immediate effect for important reasons. This is the case in particular in the event of provisions of this contract being breached.
- 9.4. In the event that after a regular or extraordinary termination the consignor fails to meet the request to pick up the objects of art within the specified period, WF has the right to sell the stored objects on the open market. When the deadline for retrieval of the objects of art up to the current place of storage (sale) has elapsed, twice the storage fee is due for payment.

## 10 GENERAL PROVISIONS

- 10.1. Any amendment to the storage contract and to these GTC must be in writing.
- 10.2. WF reserves the right to amend these GTC at any time. The changes will be notified to the consignor by circular letter, or in another appropriate way, and if not rejected by the consignor within a month the GTC are considered as approved.
- 10.3. WF is entitled but not obliged to take orders, instructions or communications of the consignor by telephone, fax, email, SMS or similar means of communication, or to react to such communications. Orders, instructions or communications of the consignor thus transmitted take effect only if WF confirms to the consignor in writing that the order will be executed, the instructions accepted or the communication taken note of except as otherwise provided.
- 10.4. These general terms and conditions are composed in German and in English. In case of doubt, the German version shall prevail.

## 11 PLACE OF PERFORMANCE, JURISDICTION AND GOVERNING LAW

- 11.1. The place of performance and the exclusive jurisdiction is Zurich. The place of performance is considered as the place of debt enforcement. WF may file a claim at any other competent court.
- 11.2. All disputes in connection with the storage of the consignor's objects of art shall be governed exclusively by the substantive laws of Switzerland.