

Spartacus Art Services, LLC Terms and Conditions

1. **Definitions.** The following defined terms have the following meanings: (i) **“Spartacus”** or **“Us/We/Our”**: Spartacus Art Services, LLC, a New Mexico limited liability company, its affiliates, members, managers, officers, employees, contractors, agents, representatives, and their successors and assigns; (ii) **“Shipper”** or **“You”**: the consignor/customer named on this Bill, and your members, managers, officers, directors, affiliates, employees, agents, contractors, representatives, heirs, successors and assigns, including anyone who delivers Freight to us; (iii) **“Bill”**: this shipping bill for Spartacus shipping and/or storage services; (iv) **“Force Majeure”**: any circumstance beyond our control, including but not limited to acts of God or the elements, confiscation or detention of Freight, civil disturbances, strikes or labor disputes, infestation, fumigation, deterioration, government or military action, war or terrorism (actual, threatened, declared or undeclared), epidemic, pandemic, quarantine, that causes delay, loss or failure of performance by Spartacus; however, no failure by Shipper to timely make any payment or maintain insurance will be excused by a Force Majeure event; (v) **“Freight”**: all goods, chattel, inventory, equipment, objects and things, including artwork, painting, and sculpture, delivered to Spartacus for shipping, storage or other service; (vi) **“Consignee”**: the named recipient in a Bill to whom or to whose order Freight is delivered.

2. **Freight; Delivery.** By signing this Bill or by giving Spartacus your Freight, you agree and acknowledge that you have read, understood and agree to these Terms and Conditions and this Bill, on behalf of yourself, Consignee and any third party with an interest in the Freight. You warrant that Consignee information and handling instructions are accurate and that you will be responsible for any delay or errant dispatch. You agree to notify Consignee of delivery.

2.1. Spartacus reserves the right, but has no obligation, to inspect all Freight. Shipments consigned for air transport may be inspected by and/or to comply with TSA and government regulations. We may perform additional wrapping and packing where deemed necessary. Additional charges incurred for packing will be your responsibility. If you pack the Freight, we do not know or guarantee the condition of the Freight and you warrant that the Freight was packed, packaged, protected and labeled to ensure safe handling, and you knowingly waive all claims for damage to the Freight.

2.2. You must specify and we must agree to any shipping and storage requirements. Unless agreed otherwise, Freight may be stored at any Spartacus location at any time. Unless agreed otherwise, we will choose the means, route and procedure for handling, transportation and delivery of all Freight, including without limitation the engagement of other carriers to deliver the Freight. If another carrier is engaged, upon such other carrier’s receipt of the Freight, we shall be immediately released from all obligations hereunder and you shall look solely to such replacement carrier. Our acceptance of another carrier’s bill of lading or freight receipt ticket constitutes an agreement between you and us to release Freight to that other carrier and for said Freight to then be governed by that carrier’s terms and conditions. You agree that we shall pick-up and/or deliver during regular business hours or other reasonable times. We may divert Freight as provided in the Uniform Commercial Code – Documents of Title (UCC). We reserve all rights provided in the UCC.

3. **Estimates.** Estimates are subject to change and may be withdrawn. All final charges are based on actual time, materials, services and costs incurred. Estimates do not guarantee a completion date or schedule. Additional charges will result from special delivery requirements, duties or fines on Freight, changes to instructions or deliveries, and any delay or incomplete information by or from you or Consignee.

4. **Payment.** Payment terms are net on receipt of invoice unless otherwise stated on the face of this Bill. Invoices past due more than 30 (thirty) days are subject to 1.5% per month service charge. You agree to also pay all fees and costs for collection on delinquent accounts including without limitation attorneys’ fees, costs and interest. Shipper, Consignee and any other owner of Freight shall remain jointly and severally liable for all such charges until Spartacus is paid in full. Force Majeure event shall not affect, limit or offset your liability and or obligation to pay amounts owed.

5. **Limitation on Our Liability.** Subject to the exclusions below, all Freight is valued at \$.60 per pound. Our liability is limited to the lesser of (a) your actual damages based on that rate, or (b) \$1,000.00; *unless* you (1) declare a higher value for the Freight, (2) pay an additional charge for our services and insurance to cover such higher value, and (3) notify us of any actual loss and document your actual loss, in writing in a timely manner, in which event our limit of liability will be the amount not covered by insurance, up to the declared value on the Bill. Delay, loss or failure of performance due to a Force Majeure event shall not constitute a default or subject Spartacus to liability.

5.1. We also are not and will not be liable for ANY damage related to glass breakage. You knowingly and voluntarily waive any and all claims and damage, direct, indirect, incidental, special, consequential or punitive, including without limitation for loss of income or lost profits, in excess of the declared value, whether or not we had knowledge that such damages might be incurred.

5.2. Other than our gross negligence or intentional misconduct, we shall not be liable for, and you agree to defend, indemnify and save harmless Spartacus from all claims, demands, costs, expenses, losses, actions, and liabilities for any damage, loss, delay, or injury to person or property (i) caused by your acts or omissions, including without limitation improper or insufficient packing, securing, marking or addressing, or those of Consignee or anyone else with an interest in the Freight; (ii) if you or Consignee violate any of the terms of this Bill; (iii) caused by Force Majeure events; (iv) if items are damaged by or while in the possession of a third party carrier, or (v) for any breach of Sections 7 (prohibited Freight) or 8 (Insurance).

5.3. Any declared value applies only to Freight shipped with Spartacus. We will not substantiate values of Freight in transit, provide proof of origin or verify Freight conforms to descriptions. You may not over-value Freight in excess of the actual value. You shall be solely responsible for providing documented proof of actual value in any claim. We reserve the right to decline any declaration of higher value, in our sole discretion, in which event the limit of liability in Section 5 shall apply. Items of Freight with a single declared value shall be considered one item. Loss to any individual item will not be considered separately.

5.4. We are not responsible for any loss or damage to Freight after delivery or installation and after departing a delivery site. We are not bound to transport Freight by any particular means, schedule, vehicle or otherwise than with reasonable dispatch. We are not liable for loss or damage to Freight if you direct us to pick up and load, or deliver and unload, at locations where you are not present.

6. **Exclusions.** You acknowledge and agree that Spartacus has no liability or responsibility for loss or damage to any of the following: (i) unwrapped, unpacked, improperly or inadequately packed, or mislabeled items; (ii) Items with prior damage (repaired or unrepaired), cracks, internal damage, concealed breakage or inherent weakness; (iii) Items with fragile internal mechanics or instrumentation; (iv) Damaged or worn antique items; (v) Uncured, semi-dry or unset items, artwork, paintings; (vi) Items with varnish, or waxen, resinous, or viscous surfaces, whether wet, semi-dry, or hardened; (vii) Items with directional orientation without descriptive arrows; (viii) Mirror, glass, marble, or stone; (ix) ordinary wear, tear or deterioration from natural climatic changes that may occur despite our reasonable efforts; (x) any pair or set, the loss of or damage to any single item of which affects the value of the pair or set; (xi) Theft or unexplained disappearance; (xii) Delay, loss or damage due to Force Majeure; and (xiii) Lost, damaged or missing items due to packing/unpacking by others.

7. **Prohibitions.** You represent and warrant that the Freight does not include any of the following, which will not be transported or stored by Spartacus under any circumstance: (i) Contraband, illegal or hazardous substances; (ii) firearms, weapons or ammunition; (iii) Explosives, chemicals, noxious or dangerous items or substances; (iii) Livestock, animals, plants, biological or hazardous Freight; (iv) Gold, platina or precious stones or imitations, in a manufactured or unmanufactured state; (v) batteries, electronic components, chips, micro circuits, silicon and other related devices. You authorize us to dispose of any items of dangerous Freight at any time, place and manner we deem appropriate, and will pay all disposal charges.

8. **Insurance.** Insurance is not included in Spartacus shipping or storage services. You will provide copies of all insurance policies covering Freight when signing this Bill and before Freight is delivered to us.

8.1. You may request that we apply for insurance on your behalf, or provide your own transit, installation or storage insurance. You must have insurance in place before shipment or storage. We do not warrant that any insurance requested can or will be placed. Insurance shall be governed by terms of the policies issued and effective only when accepted by such insurance companies or underwriters.

8.2. You will include Spartacus as an additional named insured on all policies for Freight. You knowingly and voluntarily, for consideration: (i) waive all claims for recovery for any loss or damage to the extent of insurance and agree that we shall not be liable directly, in subrogation or by assignment to you or your insurers for any payments made under insurance policies covering Freight; and (ii) all claims for recovery of any deductible under insurance policies, unless you pay an additional insurance charge to cover any such deductible under such policies. Spartacus insurance is secondary and you must proceed against your own insurance for any damage or loss.

9. **Claims.** Claims regarding loss or damage of any kind must be made in writing at the time of delivery. Spartacus reserves the right to inspect all items and wrapping materials that are being made subject to a claim. It is the responsibility of Consignee to retain the Freight in the original container(s) and/or materials and to make such Freight and materials available for inspection. You may not present any claim for loss or damage unless all charges have been paid in full. The amount of any claim shall not be used to reduce or offset any amount due.

10. **Lien.** In addition to its statutory lien, Shipper grants Spartacus a lien and valid security interest to secure payment of all charges, costs, expenses and other sums of money due to Spartacus, and to secure payment of any damages or loss Spartacus may incur due to the breach by Shipper of any covenant, agreement or condition herein, on, in and to all Freight and other personal property of Shipper currently or hereafter in Spartacus’ possession or control, and all proceeds therefrom, and such property shall not be delivered or removed without the consent of Spartacus, until all amounts then due to Spartacus shall first have been paid and discharged and all the covenants, agreements and conditions hereof have been fully complied with and performed by Shipper. Spartacus may take possession of all Freight and exercise all remedies available under the UCC, this Agreement, at law and equity and otherwise. The proceeds from any sale or disposition of property shall be applied against amounts owed. Shipper shall remain liable for any deficiency.

11. **Abandonment.** Upon notice to you and Consignee, we may require payment of all charges and removal of Freight within 30 days or in accordance with the UCC. If Freight remains unclaimed, it will be subject to disposal to enforce Spartacus’s lien and recover charges due, as well as normal and reasonable storage fees and costs of disposal or sale. Prior to such disposal or sale Spartacus will notify all parties to the shipment by U.S. Mail, with an inventory and written terms of said sale, in accordance with applicable law.

12. **Miscellaneous.** Spartacus is not a common carrier and accepts no liability as such. Services are arranged or performed subject only to this Bill and these Terms and Conditions. Spartacus reserves the right to refuse any carriage of Freight at any time. If any provision herein shall be held invalid, the remaining provisions shall not be affected thereby. This Agreement may not be modified except by a writing signed by the parties. You agree to exclusive jurisdiction and venue in the District Court of Santa Fe County, New Mexico. This Agreement is governed by the laws of the State of New Mexico.