

## Glossary of Terms:

**BFA:** Bonsai Fine Arts Incorporated and its employees, acting either, or jointly as a Carrier, Broker, or Warehouseman.

**BOL:** Bill of Lading. A contract issued by BFA representing an order for BFA to perform transportation, storage, packing, installation and/or other related services, as well as a document evidencing the receipt of goods by BFA.

**CLIENT:** shall refer to any person, entity or organization that retains BFA to collect, deliver, handle, transport, store, pack, crate, rig, condition report, and/or otherwise provide any services, and who then become liable to BFA for charges incurred, and who become bound by the terms & conditions herein. Client shall also include any person or organization that represents itself as an agent or representative of the Client.

**CONSIGNEE:** Person or parties, named in a BOL who receive cargo from BFA and act as a recipient on behalf of the customer.

**DAMAGE and LOSS:** physical harm, deterioration, alteration, disappearance, and/or destruction caused to goods or cargo by events, accidents, or means that are known or unknown. These terms are also hereby understood to define and apply to loss of revenue, interest, marketability, profit, opportunity, and/or utility.

**DECLARED VALUE:** is the value of the Property declared by Client when seeking to increase BFA's limitation of liability which will result in a higher rate being charged for BFA's Services. The declared value must appear on the face of the applicable Bills of Lading or Warehouse Receipts.

**ESTIMATES:** shall refer to quotations by BFA as to fees for Services and/or other charges.

**FREIGHT or GOODS:** Means all things (in packed or un-packed state) which are treated as movable for the purposes of a contract of storage, transportation, delivery, crating, installation or other related services.

**NVD:** No Value Declared. Shipper consigns freight for carriage by BFA and does not declare a value on that freight; thus releasing the carrier to its minimum level of liability of \$0.60 per pound.

**PBS:** Packed By Shipper, condition of contents unknown, BFA has not inspected the goods.

**SERVICES:** shall refer to any and all work performed by BFA for a Client, including but not limited to storage, transport, carriage, handling, movement, collecting, receiving, delivering, placement and securing of property, as well as construction and repair of crates and other storage or travel containers for property.

**SHIPPER:** means a person that enters into a contract of transportation, shipping, delivery, storage, installation, packing with BFA.

**STORAGE AGREEMENT:** means a written agreement between BFA and Client for storage of Client's Property in private room or custodial storage space within a BFA facility.

**SUBCONTRACTORS:** refers to any third parties retained by BFA to perform services such as rigging, oversize transport, etc.

## Customer Obligations, Understanding and Agreement

**GENERAL UNDERSTANDING:** By tendering Goods to BFA, Customer agrees that it has read and fully understands these Terms and Conditions, and those published at BFA's website. These Terms and Conditions govern all aspects of the Services rendered.

**PACKING:** All items are assumed to be packed by shipper (PBS) unless otherwise stated. If BFA receives Freight or Goods, PBS, shipper warrants that Freight or Goods have been packed, packaged, protected, and labeled to ensure safe handling. Shipper warrants consignee information and handling instructions are accurate in order to prevent delay or errant dispatch. Shipper agrees to notify consignee of arrival of Freight or Goods and to arrange carrier's delivery.

**ACCESSIBILITY:** Estimates are based on the accessibility of a 35' straight box truck (overall dims: up to 44' long and 13' 6" in height). All estimates are based on dock/ground floor/easy access at pick up and delivery, unless otherwise noted. Any obstacles, restricted access, stairs, additional services, and/or other delays must be accurately described by Customer and may incur additional charges. All estimates involving packing assume there is adequate space to lay each piece FLAT in order to pack it safely. All installations assume sheetrock wall, no stairwell, and at eye level.

**INSURANCE:** Customers are duly notified that BFA does not automatically provide cargo insurance for customer's goods, neither during transit, storage, nor handling services. At Customer's request, BFA can provide transit and storage insurance for full coverage provided that such insurance is based upon a specific declared value for the Goods given to BFA in writing before possession of the Goods is transferred to BFA or before Goods already in BFAs possession are designated for shipment. Such insurance can only be provided for goods that are professionally packed by BFA. The declared value must appear on the face of the BOL and may only be entered thereon by employees of Carrier and may not be altered once a BOL is issued unless Carrier gives its written consent for such alteration.

**STORAGE:** BFA requires a 48-hour notice to pull items from storage for pick-up or delivery or additional charges may apply. Any shipment not delivered within 10 days of pickup will be subjected to the terms and conditions of the Storage Contract and may incur storage charges. All outstanding amounts owed by the client must be settled before any items stored with BFA will be released for delivery.

**FINE ART SHUTTLES** are available as a cost-effective transport option. BFA cannot guarantee specific dates or times on Fine Art Shuttle shipments. Weekend collections and deliveries may be required. BFA will make every effort to accommodate client requests. Cancellation/Rescheduling and Late Booking charges may apply if changes are requested in less than 3 days.

**EXCLUSIVE SHIPMENTS:** Designated trucks are courier friendly and include a bed, clean bedding, refrigerator use, TV, and charging stations. BFA reserves the right to invoice a cancellation or rescheduling fee as follows: 3 business days – 25%, 2 business days– 50%, 1 business day– 100%. If nonrefundable hotels have already been booked at time of cancellation – 100%

**FABRICATION:** Required fabrication lead time is subject to change and will be confirmed at time of booking. Cancellation/Rescheduling: BFA reserves the right to invoice a cancellation or rescheduling fee as follows: If fabrication materials have been ordered, fabrication is started, or fabrication is completed at the time of cancellation or revision to the order – 100%

## Liabilities and Limits

It is agreed that BFA's liability for loss or damage to freight or goods shipped, installed, or placed in storage with BFA shall be limited to \$0.60 per pound as determined by the actual weight of the unwrapped property.

Shippers may not over-value goods for transit in excess of their actual values. The responsibility for providing documented proof of actual value in a claim shall rest solely with shipper. BFA reserves the right to decline a shipper's offered declaration of higher value on a BOL.

BFA reserves the right to inspect all Freight or Goods to be shipped. BFA employees shall be at liberty to perform additional packing and wrapping where deemed necessary. Additional charges incurred for such additional packing will be the responsibility of Shipper. Freight or Goods shipped with BFA are received in apparent good order and condition. BFA will remain at liberty to inspect consigned goods, however, will not be bound to do so, nor will BFA be required to perform such inspections in any particular method other than with reasonable visual scrutiny.

BFA cannot be held responsible and shall remain exempt from liability for physical, consequential, or punitive damages or loss, or loss caused by delay, when conditions beyond BFA's control are encountered, including:

- Extreme weather and/or acts of nature (including hurricanes, typhoons, tornadoes, cyclones, other severe storms, winds, lightning, floods, earthquakes), variations in temperature and climate, fires or explosions, disease or epidemics.
- Deterioration caused by insects, vermin, mold, mildew, rust, infestation or other causes of active deterioration.
- Civil disobedience, riots, strikes or lockouts; illegal or unlawful actions by others; losses due to acts of terrorism (including hijacking, sabotage, chemical or biological attacks, nuclear events, bombing, murder, assault and kidnapping), the public enemy, criminal acts of third parties, acts of war (declared or undeclared), armed conflict or other hostile action; civil war, rebellion, revolution, insurrection or usurpation of sovereign power, anarchy, rampant lawlessness, civil or legal disobedience or any other major disruption to the rule of law and/or governmental stability.
- Breakdown or mechanical defect of vehicles or equipment; roadway lack of capacity, closure, or impassability; street traffic, shortage of fuel or of critical materials or supplies.
- Acts of any governmental or public authority, occurrences in customs warehouses, the revocation or refusal to grant licenses or permits, where such revocation or refusal is not due to the fault of BFA, as well as quarantine or fumigation requirements.
- Act or default of the Shipper or owner of the Property, from a defect or vice in the property; or from improper packing, packaging or an act or omission on the part of Shipper. Act or default caused by Customer, when the property is stopped and held in transit upon request of Shipper, owner or party entitled to make such request.

BFA will be released from liability for cargo when directed to accept and load or deliver and unload at unmanned locations where the shipper, consignee, customer, or their agents are not present. BFA is not liable for loss or damage to Goods after delivery, or installation, or after departing an installation site. BFA is not liable for any losses caused by detention of aircraft. BFA shall not be liable for loss or damage due to lack of detailed and specific customer instruction in handling and/or placement of goods, other causes beyond the control of BFA.

BFA shall not have any liability whatsoever for any consequential, indirect, punitive, or special damages, including, but not limited to, loss caused by delay, loss of revenue, income, profit, market value, utility and/or profit, and emotional distress whether or not BFA had knowledge that such damage(s) might be incurred. BFA shall not have any liability for loss of or damage to any article, pair, or set of articles consisting, when complete, for use of several Goods; BFA shall be liable only for the separate value of such item without respect to any special value claimed for such item as a part of the article, pair or set of articles; unexplained or mysterious disappearance.

Carrier shall be liable under federal law, 49 U.S.C. § 14706, or federal common law, for any loss, damage, or delay to the shipment, except as hereinafter provided.

**INDENMITY:** Customer shall indemnify BFA for all claims, fines, penalties, damages, costs or other sums which may be incurred by BFA for any reason, including, but not limited to, any violation of, by Customer, of these Terms and Conditions or the terms of any agreement between Customer and BFA, and for, damage to, theft of, demurrage on and detention charges to equipment procured by BFA for Customer in connection with any Services performed for Customer.

Customer indemnifies BFA for its legal fees and all related costs in the event goods transported and/or placed in storage by BFA are found to be stolen, illegally imported, or obtained, fraudulently declared, or converted, or should BFA be made a party to any legal action disputing ownership, authorship, usability, or marketability of the goods.

In the event BFA is required to answer to any court action or demand relating to customer's goods, or, to appear in a legal proceeding or action, either as plaintiff or defendant, to enforce these Terms & Conditions or BFA's rights herein in a court of law, including enforcing the limitations of liability contained herein, BFA shall be entitled to recover its attorney's fees and all related costs incurred in answering and defending itself in such proceeding or action. The terms of this Section survive the completion of services and/or release of warehoused goods.

**EXCLUSIONS:** Customer automatically and hereby releases BFA from liability and responsibility for damage, loss, or loss due to delay, for goods that are inherently resistant to safe or secure transport and storage, including but not limited to:

Items improperly, insufficiently, and/or inadequately packed, braced, and/or mislabeled by the shipper. Items containing internal damage or concealed breakage; glass, ceramic, and stone with existing cracks. Items of inherent vice or weakness due to poor craftsmanship & fabrication, items of concrete or unfixed plaster. Items with waxen, resinous, or viscous surface area, be they in wet, semi-dry, or hardened state. Damaged or excessively worn antique items in disrepair, items exhibiting prior repairs or breakage, brittle items. Uncured and/or not

thoroughly dry paintings; uncured and/or unset varnish applied to furniture and sculpture. Items with directional orientation to which the shipper does not clearly affix descriptive arrows in advance. Items shipped or warehoused unwrapped or insufficiently protected at the stated request of the customer.

BFA will not transport nor place in storage: currency, specie, precious stones and metals, jewelry, or negotiable documents, firearms or ammunition; explosive, noxious or dangerous goods; solvents, fuels, or flammables; livestock, plants, foodstuffs, biological or hazardous goods. In the event that BFA is made to transport or place in storage such items without BFA's knowledge and written consent, BFA shall carry no liability whatsoever for or in connection with the goods. The act of consigning items of these types to BFA by the shipper, acting with or without knowledge of the customer, shall entitle BFA to recover any and all costs for fines, penalties, legal fees, damage to BFA equipment and/or personal injury and compensation to BFA employees. The customer also shall be liable for and indemnify BFA against all loss or damage to other property or persons caused by said dangerous goods. BFA is at liberty to dispose of any items consigned with or associated with said dangerous goods at any time and place deemed appropriate by BFA with disposal charges billable to the customer.

BFA shall not be liable for loss of goods due to inventory shortage or unexplained or mysterious disappearance of goods unless the customer establishes that such loss occurred because of BFA's failure to exercise reasonable care in transporting, storing, or warehousing the goods. Customer agrees that any such shortage or unexplained or mysterious disappearance of goods shall not constitute a conversion in the absence of evidence that the goods were actually converted by BFA for its own use.

Customer indemnifies BFA against loss to property or personal injury in the event that customer or their agent interferes with or impedes BFA collection, delivery, and/or handling procedures.

In relation to subjective terms as used herein ("inadequately packed", "inherent vice", "excessively worn", etc.) it is understood that the customer allows and releases BFA to define and interpret these terms as reasonably and commonly acceptable in BFA's industry and as applied against customary, common, and previous occurrences in the normal course of packing, shipping, storage, and related services.

**GOVERNMENTAL REQUIREMENTS:** It is the responsibility of the Client to know and comply with the requirements, laws and regulations of any Federal, State and/or local agencies pertaining in any way to Property, including, but not limited to, regulations, laws, and requirements pertaining to marking, classification, licensing, transporting hazardous materials, export controls, and any other transporting, importing, or exporting requirements. BFA shall not be responsible for action taken or fines or penalties assessed by any governmental agency against the Property because of the failure of the Client to comply with the law or the requirements or regulations of any governmental agency or with a notification issued to the Client by any such agency.

**WAIVER OF SUBROGATION:** To the extent permitted by law, Client hereby waives all rights of subrogation against BFA, its officers, members, agents, and employees, occurring and or arising out of any loss or damage to Property, Contents or Premises to the extent such loss or damage is covered by insurance, except with respect to Client's indemnity obligations hereunder, to the extent permitted by law BFA hereby waives all rights of subrogation against Client arising out of any loss or damage to the

Property, Contents or Premises. This waiver of subrogation shall be in addition to, and not in limitation or derogation of, any other waiver, release, or limitation of liability contained herein with respect to any loss of, or damage to the Property, Contents or Premises. Inasmuch as the above waiver will preclude the assignment of any aforesaid claim for loss of, or damage to the Property, Contents or Premises by way of subrogation to an insurance company, the Client agrees to immediately furnish its insurers with written notice of the terms of said waiver, and to have all applicable insurance policies properly endorsed, if necessary, to prevent the invalidation of said insurance coverage by reason of said waiver of subrogation. All insurance policies covering the Property that the Client has or shall procure shall contain a waiver of subrogation in favor of BFA. Client shall furnish BFA with all applicable insurance policies on request.

## Estimates and the Bill of Lading

**ESTIMATES & PAYMENT TERMS:** Estimates and quotations are issued on the basis of immediate acceptance; Carrier maintains the right to withdraw or revise any estimate, whether issued verbally or in writing. BFA may make such revisions with or without notification to the customer, even after BFA has accepted the goods. Rate adjustments may be triggered by any of, but not limited to, the following; additional cargo volume and/or weight; additional collections, deliveries, re-routings, and/or extra handling services; delays caused by lack of preparation, non-availability of cargo, and/or errors & omissions made by the customer; unwillingness of consignee to receive goods; and additional services ordered on the customer's behalf at either the collection or delivery, or by anyone acting on behalf of the customer.

Payment terms are PRE-PAID unless otherwise stated on the face of this BOL. Past Due Accounts: If an account is 60 days or more past due, the following actions will be taken by BFA: a) New jobs will not be booked, b) A credit hold will be implemented, c) Client terms will default to pre-pay, d) If a credit card is on file on the account, it will be automatically billed. New quotes will not be provided if account is 90 days or more past due. Pending credit approval, all invoices are payable within payment terms according to the date of the invoice. Any invoice not paid within those terms will be subject to late charges of 1.5% per month. Payment cannot be withheld or used as leverage by the customer pending insurance claims, disputes regarding the quality of services, or any other causes of dissatisfaction. Bonsai will address any and all complaints thoroughly and professionally independent of full remittance of invoice. Client agrees to pay all reasonable attorneys' fees, costs and other expenses incurred by BFA in seeking to collect any amounts due hereunder.

**BILLS OF LADING:** All conditions set forth on the BOL are binding and cannot be modified or altered, except by BFA employees. Carrier is at liberty, in the interest of safety, to depart from customer's instructions.

**SUBCONTRACTING:** BFA maintains a strict chain of continuity regarding the handling of customer property. We believe that if a client hires Bonsai to transport a work of art the task should not be given to another company to execute. To that end, BFA will only subcontract with advance permission of and consultation with the customer. It is BFA's goal to offer solutions even when certain resources are unavailable.

**RIGHT OF REFUSAL:** BFA reserves the right to reject Goods when accepting such Goods would likely result in delay or damage to other shipments, equipment or personnel, the Goods are prohibited by law or the shipment or storage of such of Goods would violate these Terms and Conditions or the terms of any agreement between Customer and BFA. BFA reserves the right to cancel, postpone, and/or reschedule any and/or all projects due to unsafe conditions as a result of weather, lack of proper equipment or staff due to misinformation from the client, and/or unforeseen circumstances, at no financial cost to BFA. BFA will not knowingly transport/ship the following Goods under any circumstance: contraband or illegal substances; firearms or ammunition; explosives, chemicals, solvents, fuels, or flammables; noxious or other dangerous goods; livestock, plants, biological or hazardous Goods, currency, specie, precious stones and metals, jewelry, or negotiable documents. Any costs and expenses incurred by BFA with regard to BFA's removal of any such Goods shall be borne by Customer.

CANCELLATIONS: BFA understands that unforeseen factors may make it necessary to change the details of a booked job: new dates, added services, even cancellation. It is imperative to address these changes in a timely manner to avoid unwanted penalties. For jobs that require considerable resources, or the exclusive reservation of staff or equipment, this is particularly important. If Customer submits a Service Request which is subsequently cancelled on less than two (2) business days' notice, Customer shall pay all Charges incurred by BFA in preparation for the Services and a cancellation fee of fifty percent (50%) of estimated charges. Additionally, if Customer cancels a Service Request on less than one (1) business day notice, Customer shall pay a cancellation fee of one hundred percent (100%) of estimated charges.

## Claims and Liens on Property

**LEIN ON PROPERTY:** BFA has a lien on any and all property of the customer in its possession, custody or control or enroute for all charges, expenses or advances incurred by BFA in connection with any shipments, storage, installation or transportation of the Shipper and if such claim remains unsatisfied for thirty (30) days after demand for its payment is made, BFA may sell at public auction or private sale, upon ten (10) days written notice by registered mail to the customer, the goods, or so much thereof as may be necessary to satisfy such lien and apply the net proceeds of such sale to the payment of the amount due to BFA. Any surplus from such sale shall be transmitted to the customer and the customer shall be liable for a deficiency in the sale.

**CLAIMS:** Claims regarding loss or damage of any kind must be made in writing at the time of delivery. BFA reserves the right to inspect all items and wrapping materials that are being made subject to a claim. It is the responsibility of the consignee to retain the goods in the original container(s) and/or materials and to make such goods and materials available to BFA for inspection. Claims not reported within 24 hours of the delivery date shall be time barred. Claims for loss, damage or delay must be filed with BFA in compliance with 49 C.F.R. §370 (or any successor statute), if and to the extent applicable to a particular shipment. Claims for loss, damage to Goods or delay for which 49 C.F.R. §370 (or any successor statute) is not applicable must be filed in writing with BFA within fourteen (14) days after the delivery of the Goods, except that claims for failure to make delivery must be filed in writing within three (3) months after a reasonable time for delivery has elapsed. Suits for loss, damage, injury or delay must be instituted against BFA (1) for shipments for which 49 C.F.R. §370 (or any successor statute) is applicable no later than two (2) years and one day from the day when written notice is given to the claimant that BFA has disallowed the claim or any part or parts of the claim specified in the notice, and (2) for shipments for which 49 C.F.R. §370 (or any successor statute) is not applicable, no later than one (1) year from the day when written notice is given to the claimant that BFA has disallowed the claim or any part or parts of the claim specified in the notice. Where claims are not filed, or suits are not instituted thereon in accordance with the foregoing provisions BFA shall not be liable for any such claims.

**UNDELIVERABLE CARGO & ABANDONED PROPERTY:** In the event that freight remains unclaimed after ninety (90) days due to abandonment, failure or refusal of delivery by consignee, or due to BFA's inability to arrange for further delivery instructions then said Freight or Goods will be subject to disposal by BFA for enforcement of Carrier's lien or lien sale in order to recover charges due, as well as normal and reasonable storage fees and costs of disposal or sale. Prior to such disposal or sale BFA will notify all parties to the shipment by US Mail and will enclose a complete inventory and written terms of said disposal or sale

Should Shipper redirect freight outside of BFA's route area in mid-transit, or otherwise render freight not deliverable, BFA shall retain the right to create new BOL's and direct freight via BFA or outside carriers as set forth above.

BFA retains the right to deliver freight to a warehouse selected by BFA at the destination city or at an intermediate point, which shall be for the sole account of Shipper.