

Terms of use for collection items of the Berlinische Galerie

Preamble

Since its foundation in 1975, the Berlinische Galerie (hereinafter referred to as BG) has the special task of collecting, preserving and researching art created in Berlin. In addition to paintings, graphic artwork, photography and architecture, it also collects documentary materials regarding the history of art, which it makes available for research purposes. The BG promotes education and scholarship by opening its archives to scholarly use.

In order to comply with its task of preserving the inventory and guaranteeing ordered use, the following terms of use regarding the inventory of the BG entered into effect on 01 July 2016.

Section 1 – Right to use, usage relationship

(1) Anyone may obtain a permission to inspect the collection items at Berlinische Galerie subject to submitting a request and subject to these Rules of Use.

(2) When using collection items that were transferred to BG for storage by third parties without BG being the owner, agreements with the owner shall take precedence over these Terms of Use.

(3) A usage relationship under public law is established between the BG and the user.

Section 2 – Conditions for use

(1) Items collected by the BG can be used after a request was filed with and permission granted by the BG. By signing the application of use for collection items, the user acknowledges the Terms of Use.

(2) The usage application shall be filed using the form provided by the BG. The application must be completed in full and carefully.

(3) The BG is entitled to store and electronically process the personal data collected in the application of use in the BG's user file in order to fulfil its tasks in accordance with Section 3 (1) of the Law on Museum Foundations of the State of Berlin.

(4) The permission is valid for the indicated purpose and the topic of use and is limited to the current calendar year. Permission may be granted subject to conditions. If any findings regarding the collection items are to be used for purposes other than the purpose set out in the application of use, the BG shall be informed thereof in advance.

(5) The BG may request the user to submit an official ID card or passport.

(6) In particular, permission may be denied or limited if
a) the purpose of the requested use can also be achieved by inspecting printed works or

reproductions or through any other means;

b) the user violated rules of use when previously using collection items; or

c) the information in the application of use is incorrect.

(7) In particular, permission may be revoked if

a) the information in the application of use is not or no longer correct;

b) reasons become known at a later point which would have resulted in refusal or limitation of the use;

c) terms of use are violated; or

d) copyrights or personal rights are violated or if any third-party interests entitled to protection are disregarded.

(8) A separate application of use shall be filed for and by any persons cooperating as authorised parties or assistants of the applicant.

(9) No usage application needs to be filed for the use of digital records that are made available under an automated online system.

(10) The user undertakes to submit to the BG at least one specimen copy of any publication for which exhibits and archived items of the BG were used immediately after publication, free of charge and without solicitation.

Section 3 – Use

(1) The original of the collection item will be made available for use by BG in the rooms designed for this purpose.

(2) Collection items can temporarily be exempted from use if:

- a) copyrights, personal rights and data protection rights so require;
- b) access is impossible due to the conservation status; or
- c) the development or cataloguing status of the exhibits and archived items so requires (applies in particular to inventory that is unprocessed, in whole or in part). The BG may, if appropriate, issue information concerning the content of the affected collection item in this case. The decision lies with the BG.

(3) Any reduction of protection periods in accordance with section 8 (4) of the ArchGB [Archive Act Berlin] shall be requested and justified in writing by the user. In case of personal collected items, the applicant shall submit declarations of consent of the parties affected or their relatives for inspection, issuance of reproductions and publication.

(4) The user is obliged to comply with the provisions of applicable copyright and personality protection as well as with third-party interests eligible for protection when using the collection items. The user shall exempt the BG from any and all third-party claims which may result from a violation of these legal provisions.

(5) The user must take utmost care when handling the exhibits and archived items and the user shall be liable for any and all negligence. In particular, they are not permitted

- a) to change exhibits and archived items or their order and system;
- b) to remove parts of the collected item;
- c) to affix notes to the collection item or to remove existing notes; or
- d) to use the collection item as writing or tracing pad.

(6) In the case of particularly sensitive collection items, use shall take place under the supervision of BG staff. The BG decides on the type of submission. The following applies

- a) The collection items may only be presented or touched by BG staff.
- b) All movements of the collection items take place after individual consultation with a BG staff member.

(7) Only pencils are to be used for handwritten notes or research in the immediate vicinity of the collection items.

(8) The use of technical equipment when using an item requires permission. This permission may be withheld or revoked if use of the technical equipment poses a risk to the collection item.

Section 4 – Reproductions

(1) The user can have the BG create reproductions of collection items if no conservational or legal objections apply. If the BG does not have the technical or personnel means to do so, the user may be allowed to create the reproductions themselves or to have them created by a body to be appointed by the BG. If the user creates reproductions themselves, a declaration of commitment needs to be completed. The BG may have the creation of reproductions

supervised.

(2) The user shall have no claim to the creation of reproductions.

(3) Reproductions of collection items may only be created if this does not pose any risk of endangering or damaging the collection item. The BG shall decide on the respective suitable methods for reproduction.

(4) Reproductions may only be published, duplicated, transferred to third parties or used in any other form subject to the written permission of the BG and for the permitted purpose. In the event of publication of reproductions, the user is obliged to affix the following indication of source, in addition to the shelf number or inventory number:

Berlinische Galerie
Museum of Modern
Art, Photography and Architecture
[indication of the respective
department of collection: Fine Arts,
Prints and Drawings, Photography,
Architecture, Artists' Archives]

(5) If third parties hold rights to the exhibits and archived items, the user shall obtain their consent prior to publication. The user shall indemnify and hold harmless the BG in the event of violations.

Section 5 – Loan

(1) Users shall have no claim to receiving collection items for exhibition purposes. Loans are only possible if it is guaranteed that the loaned collection item is efficiently protected against loss, damage and unauthorised use and that it is sufficiently insured. A loan agreement must be concluded for any loan



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These Terms of Use enter into
effect on 01 July 2016

Dr. Thomas Köhler
Chairman of the Foundation
Museum Director