

umdasch Store Makers Croatia d.o.o.
Kovinska 11, 10000 Zagreb, Croatia

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prepared: 11/2018

1) Applicability

- 1.1. The following General Terms and Conditions of Sale and Delivery (hereinafter referred to as „GTC“) shall be part of all transactions of umdasch Store Makers Croatia d.o.o. (hereinafter referred to as „umdasch“) made in the course of distribution of products manufactured and merchandise traded in by umdasch and in the course of provision of services, in particular assembly work. Terms and conditions of the customer, if any, shall not apply, even if umdasch does not object thereto or if they are not in conflict with regulations of umdasch's GTC. Amendments to these General Terms and Conditions of Sale and Delivery shall only become effective upon umdasch's written consent.
- 1.2. Instructions for use of umdasch's products shall constitute an integral part of the GTC. If applicability of the „Special Terms and Conditions for Industrial Manufacturing Contracts („IMC“)“ has also been agreed with the customer, they shall prevail in the case of conflicts with these GTC.
- 1.3. If any clauses of these GTC are ineffective, the remaining provisions shall nonetheless be binding. If a clause is or becomes impermissible by law in terms of its content, it shall not become totally invalid but remain effective in terms of its meaning as permitted by law.
- 1.4. If interpretation of a contract (including these GTC) is not clear and/or ambiguous, the interpretation which is most favourable to umdasch shall apply, contrary to Section 915 of the Austrian General Civil Code [ABGB].

2) Written form

Statements made, advice given or transactions concluded by umdasch shall become binding only upon umdasch's written confirmation, and such written confirmation shall, as a matter of principle, be given by the umdasch head office; the same shall apply to special agreements that may be concluded by and between umdasch staff (employees, agents, etc.) and the customer. Statements which have to be made by the customer on the basis of these GTC, such as objections according to Clause (3), rescission of the contract according to Clause (8.3) and (8.4), notice of defects according to Clause (11) and the like shall be made in writing in order to be effective.

3) Conclusion of and Amendments to Supply Contracts

- 3.1. Offers of umdasch shall be subject to change without notice. No warranty is given for correctness or completeness of cost estimates made by umdasch.
- 3.2. Contracts shall only be concluded upon dispatch of a written acknowledgement of order by umdasch, but not later than upon delivery or rendering of the service by umdasch. An acknowledgement of order issued by umdasch, will define the specific contents of the supply contract (scope of delivery, prices and other individual provisions).
- 3.3. If the delivery item has not been defined exhaustively at the time the purchase order is placed (e.g. with regard to technical design, etc.) umdasch shall prepare a preliminary acknowledgement of order (hereinafter „Acknowledgement of Order“). Subsequently, the customer shall define the purchase order in such a timely manner that the agreed delivery periods can be observed. Only thereafter will the final Acknowledgement of Order be prepared by umdasch and sent to the customer, provided that umdasch is able to agree to the final definitions and/or details provided by the customer. If the customer fails to fulfil or does not timely fulfil his obligation to provide details regarding his order, all consequences resulting from such default shall be borne by the customer and the Acknowledgement of Order and/or the supply contract shall remain in force without change.
- 3.4. In the case that an order is amended after an Acknowledgement of Order has been issued the prices shall be adjusted according to the actual order.

4) Rescission of Contract

- 4.1. The grounds which entitle umdasch or the customer to rescind a contract that has been concluded are exhaustively regulated in Clauses (5) Prices, (7) Payment and Default of Payment, (8) Delivery Dates and (12) Retention of Title.
- 4.2. Moreover, umdasch may rescind a concluded contract if the customer acts in violation of the Code of Conduct of Umdasch Group (download from <http://www.umdasch.com/de/Company/Responsibility>).
- 4.3. A contract may also be rescinded with regard to a part of the subject matter of the contract. In such a case umdasch shall be obliged to fulfill the validly existing part of the supply contract after payment has been made by the customer.
- 4.4. If USC rescinds the contract for reasons within the customer's control, the customer shall pay those upstream services which have already been provided by umdasch in preparation of performance of the contract (in particular procuring of material, special services and labour costs). For these upstream services umdasch may charge the higher of a lump-sum of 25% of the order value and the costs actually incurred, without having to furnish evidence of the value of the upstream services rendered. Products made to specifications which have already been manufactured shall be fully paid for less the costs of assembly and delivery saved.

5) Prices

- 5.1. The prices stated in brochures and price lists shall be net prices ex works exclusive of ancillary costs (for packaging, insurance, if any, assembly and the like) and shall be subject to change without notice.
- 5.2. If no prices are stated in the purchase order of a customer, the umdasch price lists relevant at the date the purchase order is received by umdasch shall apply.
- 5.3. The prices stated by umdasch in the Acknowledgement of Order plus statutory value-added tax shall be relevant to a supply contract.
- 5.4. If delivery is made only after the agreed delivery date with no fault of umdasch, umdasch shall be entitled to adjust the agreed prices accordingly. Such adjustments of prices shall be made according to the change in costs necessary for rendering the services in the period from the agreed delivery date and the actual delivery date; this shall include but not be limited to changes in labour costs subject to the collective bargaining agreements and in any other costs necessary for the rendering of services, such as costs for material, energy, transports, financing of third-party work, etc.

6) Exchange Rate Clause

As a matter of principle, export shipments shall be charged in euros and shall be paid in euros. If a different currency is expressly agreed upon, invoicing shall be made on the basis of the exchange rate between that currency and the euro on the day of conclusion of the contract. The exchange rates calculated by the Austrian Central Bank [OeNB] shall be relevant to this calculation.

7) Payment and Default of Payment / Insolvency of the Customer

- 7.1. Unless specifically agreed otherwise the customer shall pay at least one third of the amount stated in the Acknowledgement of Order in the form of a down payment promptly after the order has been placed (umdasch's Acknowledgement of Order), one third prior to commencement of assembly and the residual amount immediately after issuance of the invoice without deductions.

- 7.2. All payments shall be remitted to the bank accounts stated by umdasch. umdasch's field staff is not entitled to accept payment unless they hold a specific written power to that effect.
- 7.3. The customer shall not be entitled to withhold payments on the ground of notices of defect or claims for damages made or to set off payments against counterclaims unless the counterclaim was ascertained by a court or accepted by umdasch. In the case that umdasch accepts a notice of defects as being justified the customer shall be obliged to make a payment which is appropriate for the quantity of goods free from defects.
- 7.4. If different accounts payable by the customer exist umdasch shall be free to decide which of those will be covered in whole or in part by the payments received.
- 7.5. If umdasch accepts discountable bills of exchange or cheques from the customer, they shall only be accepted on account of payment; such bills or cheques shall be credited less interest and charges and subject to actual receipt of payment.
- 7.6. In the case that the customer is in default of payment umdasch shall be entitled to charge interest as defined in Section 456 of the Austrian Business Code [UGB] from the due date, and at least at a rate of 3% above the 3-month Euribor (or the applicable interbank interest rate for other currencies). Moreover, umdasch shall be reimbursed all dunning and collection expenses (i.e. at least EUR 10 per reminder and at least EUR 4 per half year for keeping track of the debt for dunning, each plus VAT, if applicable); if a collection agent has to be instructed, the customer shall also reimburse the costs in accordance with the ministerial regulation on the maximum rates of collection agents. If the customer is in default of payment for more than fourteen days despite a reminder and having been granted a reasonable grace period, umdasch shall be entitled to rescind the contract.
- 7.7. If umdasch learns of circumstances which make the customer's credit standing appear to be severely reduced, umdasch shall be entitled to demand advance payments or instalments and/or collateral security and to rescind the supply contract if no such payment is made. Such a severe reduction in credit standing shall include but not be limited to a situation where the customer is in default of payment for more than ten (10) banking days with respect to the payments or the down payment demanded. If a petition for opening of insolvency proceedings is filed or if insolvency proceedings are opened over the assets of the customer or if a petition for opening of insolvency proceedings over the assets of the customer is dismissed for lack of assets to cover the costs, umdasch's performance obligation shall be due only simultaneously with the customer's performance of the contract notwithstanding any duties of umdasch to provide advance services that may have been agreed.

8) Delivery dates

- 8.1. As a matter of principle, delivery periods agreed shall commence at the date of the Acknowledgement of Order. If documents necessary for production, such as, in particular, cubic measures, have not been made available to umdasch by that date (commencement of the period), the delivery period shall commence to run on the day on which the last document necessary for production is received by umdasch. The customer shall be obliged to ensure timely transmission of such documents. In the case assembly is delayed as defined in Clause 9.3 delivery periods shall be extended by the duration of the delay in assembly. If the customer is obliged to make a down payment, the delivery period shall commence not earlier than on the day on which umdasch receives the down payment.
- 8.2. If the customer is in default of acceptance of the delivery item, umdasch shall be entitled to charge storage fees for keeping the delivery item; irrespective thereof, umdasch shall be entitled to rescind the supply contract and to charge the customer the difference between the agreed price and the proceeds expected from realisation of the delivery item. If, subsequently, in the course of actual realisation, it turns out that the difference is larger than at first expected, umdasch shall be entitled to subsequently invoice this additional loss to the customer.
- 8.3. If agreed delivery dates are not met by umdasch for more than three weeks, the customer may rescind the contract after having granted a reasonable grace period of at least three (3) weeks. If the delivery date is not met for internal reasons of umdasch (including strikes, business interruptions or shortage of raw material, etc.), the customer's right to rescind the contract shall be subject to the condition that a delivery period has not been met for at least two (2) months and a reasonable grace period of at least three (3) weeks was granted.
- 8.4. If a fixed-date transaction has been expressly agreed upon, the contract shall, in principle, end if and when the delivery date is not met. If, however, this is due to force majeure (in particular strikes, acts of God which are beyond umdasch's control, etc.), the contract shall only end if and when the delivery date has not been met for more than two (2) months.

9) Shipping and Assembly / Returns

- 9.1. In all cases goods shall be shipped at the risk of the customer, even if delivery freight paid has been agreed. The customer shall inspect the delivery item without delay and notify umdasch in writing of any transport damage without delay; otherwise all claims will be forfeited.
- 9.2. If assembly by umdasch has been agreed upon, the customer shall store the shipments in lockable and dry rooms immediately upon arrival, irrespective of the fact that the customer bears the risk.
- 9.3. In the case that assembly by umdasch has been agreed upon, the customer shall ensure that assembly can be carried out without delay and, in particular, that umdasch's assemblers are not disturbed by other craftsmen. In addition, rooms to be fitted out in the area of assembly shall be made available at the customer's own cost, heated, if necessary, cleaned, sufficiently lighted and equipped with an electricity connection. The costs of electricity consumption shall also be borne by the customer. The customer shall ensure that carpets are non-skid and shall cover them sufficiently in order to protect them against dirt and/or damage. The customer shall ensure proper and no-risk access for vehicles which leads directly to the rooms to be fitted out and shall provide means of transport that may be available (such as cranes or lifts) to umdasch free of charge.
- 9.4. If in the course of assembly connections with buildings of the customer (e.g. fastening to the walling by means of drilling or mortising) have to be made, the customer shall be obliged to inform umdasch about dangerous spots prior to commencement of the work by umdasch; in particular the exact location of electricity, gas, water and other line or pipe systems shall be advised.
- 9.5. umdasch shall not be obliged to examine the qualities of the walls, or objects onto which items shall be fixed in the course of assembly. In contrast thereto, the customer shall be obliged to inform umdasch about the quality of walls or buildings and about any and all circumstances which might make assembly more difficult. Any additional expenses incurred by umdasch due to unknown qualities of walls or buildings shall be borne by the customer.
- 9.6. In all cases in which umdasch carries out assembly for a lump sum by order of the customer, additional costs for overtime ordered and delays in assembly caused by the customer and work not included in the Acknowledgement of Order shall be charged separately.

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- 9.7. If assembly cannot be carried out immediately after delivery for reasons for which the customer is responsible, umdasch shall charge additional costs resulting therefrom separately (in particular due to delay in assembly); the same shall apply if delivery and assembly have to be carried out in instalments at the customer's request.
- 9.8. The customer shall clean rooms after assembly has been completed at his own costs.
- 9.9. In principle, umdasch does not owe installation and connection of electric devices of all kinds and light fixtures. Unless otherwise agreed, the customer shall have this work carried out by a firm licensed for such jobs at his own costs.
- 9.10. Packaging material, if any, shall be the property of the customer and thus, shall be disposed of by him. Transportation aids such as pallets, etc. used by umdasch shall be returned to umdasch; otherwise the customer shall pay a compensation.
- 9.11. Goods shall be taken back only if umdasch agrees in writing within one month of issuance of the invoice and if the goods have not yet been used and are still in their original packaging. Goods the net value of which is below EUR 400 and goods made to specifications and components in special colours shall be excluded from being taken back from the beginning. Return shipping of goods taken back by umdasch shall be at the risk and cost of the customer to the address to be advised by umdasch. Goods that are taken back by umdasch shall be credited to the customer less a handling fee of 20% of their net value.
- 10) Damages**
- 10.1. The customer shall only have claims for damages vis-à-vis umdasch out of or in connection with the supply contract, including assembly work, if he can prove that umdasch acted with intent or gross negligence. The customer shall bear the burden of proof that umdasch acted with intent or gross negligence. In any case compensation for consequential damage, pecuniary loss and for damages based on claims of third parties vis-à-vis the customer shall be excluded.
- 10.2. The customer shall in any case assert claims for damages in court within twelve (12) months of the date the damage was noticeable and the party who caused the same could be identified and in any case within three (3) years of delivery and/or service.
- 10.3. Furthermore, the parties to the contract mutually waive their right to claim future damages to the extent that they are covered by one party's own fire insurance or fire-related business interruption insurance. This waiver shall not apply if the customer has a right to claim damages according to Clause 10.1 or if due to such a waiver the insurer were released from payment.
- 10.4. A locking device for show cases and desks provided by umdasch shall constitute no protection against burglary or theft; claims for damages in the case of burglary or theft shall therefore be excluded to that extent.
- 11) Warranty**
- 11.1. umdasch warrants that the goods are free from defects at the time of delivery. Rights or claims under warranty shall be excluded if the customer fails to fulfil his duty to inspect the goods and to notify defects as laid down in Clause 11.3, if a defect is caused by parts provided by the customer, if alleged defectiveness is the result of the customer's improper handling or excessive use and in the case of normal wear and tear.
- 11.2. The customer shall assert rights or claims under warranty in court within twelve (12) months for moveable goods and within six (6) months for delivered electrical devices and light fixtures. Presumed defectiveness as defined in Section 924 (2) ABGB and any right of recourse of the customer pursuant to Section 933b ABGB shall be excluded.
- 11.3. The customer shall inspect goods or services immediately after receipt and shall notify umdasch of defects without delay and in any case not later than eight (8) days after they became noticeable, by registered letter including a description of the type and extent of the defect; otherwise the goods delivered or the services rendered shall be deemed accepted and, thus, in particular warranty claims or claims for damages or avoidance on account of mistake by the customer shall be excluded.
- 11.4. If the delivery item is assembled by umdasch the customer shall be obliged to inspect the incoming products for defects (e.g. surface quality, colour, etc.) prior to assembly; if he identifies any defects, he shall notify umdasch thereof in writing immediately and in any case so early that assembly will not be commenced; otherwise the customer shall lose any warranty rights based on such defects.
- 11.5. If the customer violates his duties as laid down in Clause 9.5, he shall not be allowed to claim defects of assembly vis-à-vis umdasch which resulted from his violation of duties.
- 11.6. The following shall be excluded from warranty:
- goods provided by the customer
 - compatibility of materials used by umdasch with other parts and properties of rooms to be fitted out by umdasch as, for example, third-party FF&E, colours of light, heating, etc.
 - deformation and cracking in solid wood used
 - the function of a delivery item and suitability of the material used, if the design was made by the customer or his authorised representative (e.g. his architect)
 - similarity of colour shades and surface or veneer texture of the different delivery items.
- 11.7. If umdasch is obliged to satisfy warranty claims, umdasch shall, at its option, make improvements or substitute deliveries. Improvements or substitute deliveries made by umdasch shall not extend the warranty period; thus, the warranty period for improved or subsequently delivered moveable items shall also end not later than twelve (12) months after the original delivery.
- 11.8. Services rendered by umdasch due to unjustified notices of defects shall be deemed a new order and shall be separately invoiced to the customer.
- 12) Retention of title**
- 12.1. Goods delivered by umdasch shall remain the property of umdasch until full payment of all accounts receivable by umdasch under the delivery (in particular the invoice amount, even if increased in accordance with the contract, interest, charges and costs).
- 12.2. Deliveries for a single construction project shall be deemed a single order, even if items were ordered, delivered or invoiced separately. Retention of title to all goods shall only cease if all accounts receivable by umdasch under the order have been paid.
- 12.3. Claiming retention of title shall only be considered a rescission of the contract if the rescission is expressly declared by umdasch. Retention of title may be claimed, with or without rescission of the contract, for the entire delivery or for specific goods.
- 12.4. If umdasch rescinds the supply contract in the course of exercise of its right under retention of title, invoicing shall be made as follows (even if the customer is not responsible for the delay in payment): The costs for recovering the goods that are subject to retention of title (disassembly, transport) shall be added to the invoice amount plus ancillary expenses (interest, costs, etc.). Payments already made shall be deducted from this amount. Subsequently, the value which umdasch can achieve in the open market in the ordinary course of business for goods taken back shall be calculated, taking into account the selling costs. If this calculation results in a credit balance for the customer, such balance shall be paid to the customer. If, however, the calculation results in a payment to be made by the customer, the customer shall be obliged to effect the same promptly; in the case of a delay umdasch shall be entitled to charge the customer default interest according to Clause 7.6.
- 12.5. The customer shall only be allowed to resell goods title to which has been retained by umdasch if they were expressly declared to be goods for resale by umdasch or if retention of title has ceased due to payment or if umdasch expressly agrees. In the case of a resale the customer already at this point assigns his claims vis-à-vis third parties which arise from resale to umdasch as security until full settlement of all claims vis-à-vis him and undertakes to ensure that all acts of public disclosure (entry in the books, etc.) necessary for such assignment of security are taken and maintained at his own expense.
- 12.6. If goods that are subject to retention of title are connected or commingled with other goods umdasch shall have a right of co-ownership of the new items in proportion of the value of the item that was subject to retention of title to the value of the other item at the time of combination or commingling. If this newly created item is resold, the customer shall assign to umdasch the prorated purchase price from resale as defined in the foregoing Clause 12.5.
- 13) Provision of Parts to the Customer**
- 13.1. If the customer provides parts under an order placed with umdasch, such parts must be in perfect condition, free from any defects and in first-class quality. Thus, the customer shall, in particular, be liable for the quality, dimensional accuracy, functionality, surface quality, proper packaging and freedom from defects of the parts at the time they are delivered to umdasch, but also for the fact that the parts provided by him are suitable for performance of the relevant order and/or for the envisaged processing by umdasch.
- 13.2. If the parts provided by the customer do not fulfil these requirements, umdasch shall have an option either to take the measures necessary from umdasch's point of view to repair the relevant defect or to reject the provided parts. All costs, expenses and damages whatsoever resulting therefrom, including those resulting from a related delay shall be borne by the customer.
- 13.3. umdasch shall be subject to no duty to examine the parts provided by the customer for their quality, for defects or their suitability for the envisaged processing by umdasch. If umdasch carries out an incoming goods inspection, such inspection shall be voluntary and shall change nothing in the stated responsibility of the customer and shall not release the customer from his duty to provide parts in the quality described in Clause 13.1. In particular, the customer shall not be entitled to claim that umdasch would have been able to identify any defect in quality or otherwise in the course of an incoming goods inspection.
- 13.4. The customer is obliged to provide umdasch with the necessary information regarding the type of processing.
- 13.5. If and to the extent that the customer intends to make modifications of the technical documents made available by him, he shall be solely responsible for doing so in written form and for provably delivering them to umdasch. In order for a modification desired by the customer to be effective and binding it shall require an express written confirmation by umdasch, which shall be issued after delivery of the modification to umdasch. All costs, expenses and damages whatsoever resulting from such a modification, including those resulting from a related delay, shall be borne by the customer.
- 14) Proprietary right, advertising, photos**
- 14.1. All drawings, modifications, quotations, etc. shall be the intellectual property of umdasch. They enjoy full protection and may be made accessible to third parties only upon umdasch's consent, even after termination and performance of the supply contract.
- 14.2. It shall be deemed agreed that umdasch may use premises fitted out by umdasch in its advertising (reference lists, brochures, press releases, etc.) and may state the name of the customer. In particular, the customer grants umdasch the right to take pictures of premises fitted out by umdasch at the cost of umdasch and shall support umdasch or persons instructed by umdasch to do so in any possible way.
- 15) Place of performance and place of jurisdiction**
- 15.1. The exclusive place of performance for all services (in particular deliveries and payments) shall be Amstetten, unless agreed otherwise in the agreement made with the customer. The exclusive place of jurisdiction for all disputes arising directly or indirectly out of the contractual relationship shall be the court having jurisdiction over Amstetten and the subject matter; however, umdasch shall be entitled to also sue the customer at the court having jurisdiction over 8430 Amstetten and over the subject matter and, at umdasch's option, in any other court in Austria.
- 15.2. The contractual relationships shall be subject to Austrian law and the conflict of laws rules of private international law and UN Sales Law shall be excluded.
- 16) Austrian Consumer Protection Act [Konsumentenschutzgesetz]** As a matter of principle, umdasch concludes contracts exclusively with entrepreneurs. If, in an exceptional case, the customer is a consumer as defined by the Austrian Consumer Protection Act he shall be obliged to inform umdasch thereof; otherwise the customer shall be liable. If, in an exceptional case, a transaction is a consumer transaction the General Terms and Conditions of Sale and Delivery shall only apply insofar as they do not violate the compulsory provisions of the First Main Part of the Austrian Consumer Protection Act.