

General Terms and Conditions of Sale and Delivery

UMDASCH
SHOPFITTING

Umdasch Shopfitting L.L.C, Al Quoz Industrial Area 3, Street 22, P.O.Box 182774, Dubai, UAE

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 Shopfitting LLC (hereinafter referred to as „USF“) made in the course of distribution of products manufactured and merchandise traded in by USF 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 USF does not object thereto or if they are not in conflict with regulations of USF's GTC. Amendments to these General Terms and Conditions of Sale and Delivery shall only become effective upon USF's written consent.
- 1.2. Instructions for use of USF's products shall constitute an integral part of the 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 USF shall apply insofar as permissible by UAE law.

2) Written form

Statements made, advice given or transactions concluded by USF shall become binding only upon USF's written confirmation, and such written confirmation shall, as a matter of principle, be given by the USF head office; the same shall apply to special agreements that may be concluded by and between USF 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 USF shall be subject to change without notice. No warranty is given for correctness or completeness of cost estimates made by USF.
- 3.2. Contracts shall only be concluded upon dispatch of a written acknowledgement of order by USF, but not later than upon delivery or rendering of the service by USF. An acknowledgement of order issued by USF, 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.) USF 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 USF and sent to the customer, provided that USF 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 USF 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, USF may rescind a concluded contract if the customer acts in violation of the Code of Conduct of Umdasch Group (download from http://www.umdasc.com/umdasc/Umdasch_Verhaltenskodex_engl.pdf).
- 4.3. A contract may also be rescinded with regard to a part of the subject matter of the contract. In such a case USF shall be obliged to fulfil 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 USF in preparation of performance of the contract (in particular procuring of material, special services and labour costs). For these upstream services USF 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 USF price lists relevant at the date the purchase order is received by USF shall apply.
- 5.3. The prices stated by USF in the Acknowledgement of Order plus statutory value-added tax, if applicable, shall be relevant to a supply contract. 5.4. If delivery is made only after the agreed delivery date with no fault of USF, USF 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 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 AED and shall be paid in AED. If a different currency is expressly agreed upon, invoicing shall be made on the basis of the exchange rate between that currency and AED on the day of conclusion of the contract. The exchange rates calculated by the UAE Central Bank 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 (USF'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 USF. USF's field staff is not entitled to accept payment unless they hold a specific written and notarized 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 USF. In the case that USF 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 USF shall be free to decide which of those will be covered in whole or in part by the payments received.
- 7.5. If USF 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 USF shall be entitled to charge interest of 12% p.a. Moreover, USF shall be reimbursed all dunning and collection expenses (i.e. at least AED 100 per reminder and at least AED 50 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. If the customer is in default of payment for more than fourteen days despite a reminder and having been granted a reasonable grace period, USF shall be entitled to rescind the contract and claim for damages.
- 7.7. If USF learns of circumstances which make the customer's credit standing appear to be severely reduced, USF 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, USF's performance obligation shall be due only simultaneously with the customer's performance of the contract notwithstanding any duties of USF 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 USF 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 USF. 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 USF receives the down payment.
- 8.2. If the customer is in default of acceptance of the delivery item, USF shall be entitled to charge market-rate storage fees for a full month for each commenced month of storage for keeping the customer's delivery item; irrespective thereof, USF 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, USF shall be entitled to subsequently invoice this additional loss to the customer.
- 8.3. 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 USF'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 USF in writing of any transport damage without delay; otherwise all claims will be forfeited.
- 9.2. If assembly by USF 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 USF has been agreed upon, the customer shall ensure that assembly can be carried out without delay and, in particular, that USF'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, cooled, 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 USF 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 USF about dangerous spots prior to commencement of the work by USF; in particular the exact location of electricity, gas, water and other line or pipe systems shall be advised.
- 9.5. USF shall not be obliged to examine the qualities of the walls, or objects onto which

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- items shall be fixed in the course of assembly. In contrast thereto, the customer shall be obliged to inform USF about the quality of walls or buildings and about any and all circumstances which might make assembly more difficult. Any additional expenses incurred by USF due to unknown qualities of walls or buildings shall be borne by the customer.
- 9.6. In all cases in which USF 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.
- 9.7. If assembly cannot be carried out immediately after delivery for reasons for which the customer is responsible, USF 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. USF 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 palettes, etc. used by USF shall be returned to USF; otherwise the customer shall pay a compensation.
- 9.11. Goods shall be taken back only if USF 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 (AED 2000) and goods made to specifications and components in special colours shall be excluded from being taken back. Return shipping of goods taken back by USF shall be at the risk and cost of the customer to the address to be advised by USF. Goods that are taken back by USF 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 USF out of or in connection with the supply contract, including assembly work, if he can prove that USF acted with intent or gross negligence. The customer shall bear the burden of proof that USF 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 USF 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. USF 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 must notify USF in writing of the difference or defect, within fifteen days of the date on which the item sold is effectively delivered to him, and he must file the action for rescission or reduction of the price within 60 days of such delivery date. However, if the defect is concealed and cannot be detected by ordinary examination, the customer must then notify USF immediately when he discovers it, and lodge the action in warranty of the defect within 6 months of the date of actual delivery. Should the customer fail to notify USF of the existence of a difference or defect, or if he does not file the action for rescission, price reduction or defect warranty within the period herein mentioned, as the case may be, his action shall not be heard in case of denial or lack of legitimate excuse.
- 11.3. If the delivery item is assembled by USF 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 USF 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.
- 11.4. 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 USF which resulted from his violation of duties.
- 11.5. The following shall be excluded from warranty:
- goods provided by the customer;
 - compatibility of materials used by USF with other parts and properties of rooms to be fitted out by USF 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.
- 11.6. If USF is obliged to satisfy warranty claims, USF shall, at its option, make improvements or substitute deliveries. Improvements or substitute deliveries made by USF shall not extend the warranty period.
- 11.7. Services rendered by USF 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 USF shall remain the property of USF until full payment of all accounts receivable by USF 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 USF 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 USF. Retention of title may be claimed, with or without rescission of the contract, for the entire delivery or for specific goods.
- 12.4. If USF 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 USF 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 USF 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 USF if they were expressly declared to be goods for resale by USF or if retention of title has ceased due to payment or if USF expressly agrees. The customer shall promptly inform USF of any enforcement measures by third parties against the goods delivered under retention of title and, at its cost, take all measure necessary to enable USF to achieve the release and return of the goods.
- 12.6. If goods that are subject to retention of title are connected or commingled with other goods USF 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 USF 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 USF, 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 USF, 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 USF.
- 13.2. If the parts provided by the customer do not fulfil these requirements, USF shall have an option either to take the measures necessary from USF'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. USF 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 USF. If USF 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 USF 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 USF 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 USF. In order for a modification desired by the customer to be effective and binding it shall require an express written confirmation by USF, which shall be issued after delivery of the modification to USF. All costs, expenses and damages whatsoever resulting from such a modification, including those resulting from a related de- lay, shall be borne by the customer.
- 14) Proprietary right, advertising, photos**
- 14.1. All drawings, modifications, quotations, etc. shall be the intellectual property of USF. They enjoy full protection and may be made accessible to third parties only upon USF's written consent, even after termination and performance of the supply contract.
- 14.2. The customer agrees that USF may use premises fitted out by USF in its advertising (reference lists, brochures, press releases, etc.) and may state the name of the customer. In particular, the customer grants USF the right to take pictures of premises fitted out by USF at the cost of USF and shall support USF or persons instructed by USF to do so in any possible way.
- 15) Place of performance, place of jurisdiction and applicable law**
- 15.1. The exclusive place of performance for all services (in particular deliveries and payments) shall be Dubai, United Arab Emirates, 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 courts of Dubai, United Arab Emirates.
- 15.2. The contractual relationships shall be subject to the laws of Dubai and the United Arab Emirates.