

# GENERAL TERMS AND CONDITIONS FOR ASSEMBLIES OF INDUSTRIAL CONTAINER SYSTEMS

## I. GENERAL / SCOPE

1. The following terms and conditions for assemblies (“Terms”) by the THIELMANN UCON GmbH („THIELMANN UCON”) apply to:
  - Persons upon conclusion of the contract, exercising their trade or independent professional occupation („Contractors“);
  - Legal entities of public law or those governing special funds regulated by public law.
2. These Terms apply to assemblies installed by THIELMANN UCON unless agreed upon otherwise. Additional agreements and modifications require the written consent by THIELMANN UCON. Only these Terms apply; any conflicting or deviating Terms by the Purchaser will not be honored by THIELMANN UCON unless the validity thereof has been explicitly agreed upon in writing by THIELMANN UCON. These Terms shall also apply in the event that THIELMANN UCON is carrying out the order implicitly under the full awareness that conflicting or deviating terms and conditions by the Purchaser exist.
3. These Terms shall apply to any and all existing and future business relationships with the Purchaser.

## II. SERVICES, ASSEMBLY CHARGES

1. Assembly services include the assembly delivered by THIELMANN UCON and/or the instruction of persons specified by the Purchaser.
2. Any services which have not been agreed upon and which may be required for purposes of the installation of the assembly shall be carried out solely upon written consent by THIELMANN UCON.
3. THIELMANN UCON reserves the right to either fully or partially authorize third-party companies with the installation of the assembly work.
4. Unless a blanket price has been explicitly agreed upon, the assembly shall be invoiced according to work performed at the currently applicable service rate.
5. The amounts agreed upon are exclusive of value added tax (VAT) which shall be additionally remitted to THIELMANN UCON at the legally applicable rate.
6. A blanket assembly price shall not apply
  - In case of design modifications following the conclusion of the contract,
  - In case of deviations within the documents provided,
  - In cases of delay due to the fact that the premises had either not been completely or partially prepared by the Purchaser,

- In case of site related problems with the assembly installation. The Purchaser is liable for any additional expenses thereby incurred and shall be invoiced separately for those charges.
7. The following items are not contained in the assembly price:
    - Any work time occurred due to unloading and material handling on the Purchaser's premises,
    - All idle times,
    - All auxiliary materials unless included in the delivery scope of THIELMANN UCON,
    - Any and all masonry and chisel work required in addition to the laying of installation-technical lines. The Purchaser is liable for any additional related expenses and shall be invoiced separately for those charges. The aforesaid shall apply also in cases where a blanket price had initially been agreed upon.
  8. In the event that through no fault of THIELMANN UCON, the assembly start cannot take place or is delayed, and thereby delaying the startup, the Purchaser is liable for any expenses resulting thereof, specifically those for idle times and costs for additional travel required by the assembly personnel.
  9. In case it will become necessary to recall the assembly personnel for reasons not attributable to THIELMANN UCON, the costs thereby incurred shall be invoiced to the Purchaser.

### III. PURCHASER PARTICIPATION

1. The Purchaser shall, at its own cost, provide support to the assembly personnel during the assembly process.
2. The Purchaser shall provide adequate measures required to protect persons and things at the site of assembly. The Purchaser shall inform the assembly supervisor of any existing safety regulations if in any way relevant to the assembly personnel. The Purchaser shall notify THIELMANN UCON in case of safety violations against such regulations caused by assembly personnel.

### IV. TECHNICAL ASSISTANCE BY THE PURCHASER

1. The Purchaser is committed to provide technical assistance at its own expense, in particular relating to:
  - Provision of the necessary suitable personnel (masons, carpenters, fitters and other such skilled persons as well as handymen), adequate in number and time required for the assembly process; These personnel are bound to follow the instructions of the assembly supervisor. THIELMANN UCON shall not assume liability for such personnel. Article VII and VIII apply in cases where a defect or damage had occurred which was caused by an instruction of the assembly supervisor.
  - Performance of all earth, construction, foundation and scaffolding works including the required construction materials.
  - Provision of the required equipment and tools such as hoists, compressors, welding equipment, in addition to required utensils and materials such as construction lumber, chocks, supports, cement,

- plaster and sealing materials, lubricants, fuels, driving ropes and driving belts.
  - Provision of heating, lighting, power, water in addition to the required connections.
  - Provision of dry and lockable premises required for storage of tools belonging to the assembly personnel.
  - Transport of the assembly parts at the assembly site, protection of the assembly site and materials from harmful factors of any kind, cleaning of the assembly site.
  - Provision of suitable theft proof staff rooms and work spaces (heated, lighted, containing washing and restroom facilities) as well as First Aid facilities for the assembly personnel.
  - Provision of materials and undertaking any activities required for the adjustment of the equipment to be installed as well as for the implementation of the contractually designated test run.
2. By providing technical assistance, the Purchaser shall warrant the assembly start to commence immediately following the arrival of the assembly personnel without delay up until the acceptance of the installation by the Purchaser. Insofar as specific plans or instructions are required, THIELMANN UCON shall provide the same to the Purchaser in a timely manner.
  3. In the event that the Purchaser does not comply with its obligations, THIELMANN UCON is entitled but not obligated to carry out those activities in lieu of the Purchaser who will be invoiced for the costs incurred. Furthermore, the legal rights and claims shall remain unaffected.

#### V. ASSEMBLY DEADLINE, ASSEMBLY DELAY

1. The assembly deadline has been met if by the time of expiration, the assembly is ready for acceptance by the Purchaser, in the case of a contractually designated test run.
2. In cases where the assembly was delayed due to lack of technical prerequisites, missing authorizations or due to measures based on labor disputes (strike, lock-out) in addition to circumstances not attributable to THIELMANN UCON, a reasonable extension of the assembly deadline shall be granted, provided that such hindrances represent a verifiable impact upon the completion of the assembly. This shall apply also if such circumstances have arisen when THIELMANN UCON is already in default.
3. If after the due date and under consideration of any legal exceptions, the Purchaser is granting a reasonable period of time for THIELMANN UCON to perform and if THIELMANN UCON does not comply with this deadline, the Purchaser may within the legal limits, withdraw from the contract. The Purchaser shall, by request of THIELMANN UCON declare whether it will exercise its withdrawal option within a reasonable period of time.
4. In the event that through no fault of THIELMANN UCON, the assembly performance was lost or impaired prior to the acceptance, THIELMANN UCON is entitled to claim the assembly price net of expenses saved. The same applies in the case of impossibility of performance through no fault of THIELMANN UCON. The Purchaser may demand a repeat order if and to the

extent of which this may be reasonable for THIELMANN UCON in terms of other contractual obligations. A repeat order shall require renewed compensation to THIELMANN UCON on the basis of the contract price. Additional claims due to default are determined exclusively according to Article VIII. 5. of these terms and conditions.

## VI. ACCEPTANCE

1. The Purchaser is obligated to perform an acceptance of the installation once the Purchaser has been notified of its completion and as may be the case, a contractually designated test run of the installed assembly has already taken place. In the event that the assembly is not compliant with the provisions of the contract, THIELMANN UCON shall be obligated to remedy those defects. This shall not apply if the defect is immaterial to the interests of the Purchaser or if the defect is based on circumstances which are not attributable to THIELMANN UCON. In the case of an actual existence of a nonessential defect, the Purchaser may not refuse the acceptance.
2. In the event that the acceptance is delayed through no fault of THIELMANN UCON, it is considered to have taken place two weeks after notification of the completion of the installation. Furthermore, THIELMANN UCON reserves the right to grant a reasonable period of time for the acceptance to ensue. Should this attempt remain unsuccessful, the acceptance is considered to have taken place upon the expiration of the time period.
3. Upon completion of the acceptance, the liability on part of THIELMANN UCON is considered lapsed insofar as the Purchaser has not reserved the assertion of a certain defect beforehand. The same applies to defects which were known to the Purchaser.

## VII. CLAIM FOR DEFECTS

1. The Purchaser must report any defects detected to THIELMANN UCON at once.
2. Following the acceptance of the installation, THIELMANN UCON shall be liable for defects of the installation under exclusion of all other claims by the Purchaser irrespective of No. 6 and Article VIII in such a manner that the defects are to be rectified by THIELMANN UCON. The Purchaser shall immediately notify the Contractor of a detected defect.
3. THIELMANN UCON cannot be held liable if the defect is immaterial to the interests of the Purchaser or if the defect is based on circumstances which are attributable to the Purchaser.
4. Inappropriate modifications or repair work performed by either the Purchaser or a third party which had not been authorized beforehand by the Contractor shall result in the cancellation of the liability by THIELMANN UCON for any consequences which may arise thereof. The Purchaser or authorized third parties are, within the statutory provisions, entitled to rectify the defects only in urgent cases of endangerment to the operational safety and for the purpose of preventing excessive damages, in case of which THIELMANN UCON must be notified immediately. This also applies in cases where THIELMANN UCON – under consideration of the statutory cases of exception – had failed to meet a

- reasonable deadline set by the Purchaser to rectify the defect. In that case, the Purchaser may claim compensation for the costs incurred.
5. In the event that the claim is justified, THIELMANN UCON shall bear the following costs for the rectification of the defect, in particular, the costs for the replacement unit as well as the related shipping costs. In addition, THIELMANN UCON shall bear the costs for the disassembly and the reinstallation as well as the provision of technicians and supporting staff including travel costs, provided that thereby no unreasonable burden arises to THIELMANN UCON.
  6. In the event that THIELMANN UCON – under consideration of statutory exceptions – fails to meet a reasonably set deadline to rectify the defect, the Purchaser is – within the statutory provisions – entitled to a reduction of the purchase price. The Purchaser may withdraw from the contract only in cases where the installation – despite the reduction of the purchase price – is verifiably no longer of interest to the Purchaser. Additional claims are determined exclusively according to Article VIII. 5. of these terms and conditions.

#### VIII. LIABILITY, DISCLAIMER

1. In the event that an assembly part delivered by THIELMANN UCON is damaged through the fault of THIELMANN UCON, THIELMANN UCON shall at its own option, either repair or replace the part or provide a new part.
2. If, through the fault of THIELMANN UCON, the installation may not be utilized by the Purchaser according to the contract because of omission or faulty implementation of proposals and consultations taken place prior to or after contract conclusion as well as other contractual secondary obligations – in particular, operating and maintenance instructions – the provisions of Articles VII and VIII. 1. and 5. shall apply for the Purchaser under the exclusion of further claims.
3. Should a defect be attributable to service specifications or directives of the Purchaser, to materials or components delivered or specified by the Purchaser or the quality of (advance) performance by another company, THIELMANN UCON is not liable for these defects, unless the defect caused by THIELMANN UCON would have been verifiably foreseeable and THIELMANN UCON had failed to issue an appropriate notification thereof. Notification to the authorized representative of the Purchaser is in any case sufficient.
4. Furthermore, the liability for defects is cancelled if the work is continued by another contractor or if modifications or repairs of the installation are undertaken without our consent. The same applies if additional components of any kind are installed or if the installation is put into operation by unauthorized persons prior to acceptance. Additionally excluded from the liability for defects are damages due to faulty construction, insufficient chimney systems, improper operation or maintenance as well as damages caused by the use of unsuitable or contaminated fuels or by chemical impacts such as frost or water damages.
5. THIELMANN UCON shall be liable only for damages – on whatever legal grounds – which did not occur at the assembly-object itself,

- In case of intent,
- In case of gross negligence of the owner /organs or executive employees,
- In case of culpable injury to life, body or health,
- In case of defects which had been intentionally withheld,
- Within the scope of a warranty promise,
- Insofar as personal or property damages may be claimed according to the product liability law, on personally used items.
- In case of a culpable violation of essential contractual obligations, THIELMANN UCON may be held liable even in cases of gross negligence by non-executive employees and in cases of slight negligence, whereby liability is limited to reasonably foreseeable damages and those typical of the contract. Further claims are excluded.

## IX. STATUTE OF LIMITATION

The statute of limitations for all claims by the Purchaser – on whatever legal grounds – expires after 12 months. The statutory deadlines for damage claims apply according to Article VIII.5. a) – d) and f). In the case that THIELMANN UCON is rendering an assembly performance at a structure, thereby causing a deficiency, the statutory deadlines shall apply also.

## X. COMPENSATION BY THE PURCHASER

In the case that equipment or tools which have been provided by THIELMANN UCON are damaged or lost through no fault of THIELMANN UCON, the Purchaser shall be held liable for compensation of the damages thereof. Damages caused by normal wear and tear are left out of consideration.

## XI. APPLICABLE LAW, COURT OF JURISDICTION, MISCELLANEOUS

1. The law of the Federal Republic of Germany shall apply exclusively regarding all legal relationships between THIELMANN UCON and the Purchaser, relevant for legal relationships for domestic parties among one another; the UN Convention on Contracts for International Sale of Goods does not apply here
2. Court of jurisdiction is the competent court of the registered office of THIELMANN UCON. However, THIELMANN UCON is entitled to file suit against the Purchaser at the registered office of the Purchaser.
3. Should individual provisions of these terms and conditions for assemblies be or become invalid, the validity of the remaining terms shall remain unaffected.

## APPENDIX

### 1. WORKING TIME

The regular working times for working, travel and idle hours range from 7:00h to 15:45h and include a 45 minute break.

Overtime hours may be arranged with the technical personnel and scheduled within

the legal limits; the Purchaser shall obtain the required official authorizations.

## **2. FIELD SERVICE RATES**

Travels hours, idle and working hours are charged as follows:

Project manager 150,00 EUR/h

Installation engineers mechanical/electrical 130,00 EUR/h

Electronics engineer and technician 100,00 EUR/h

Assembler 85,00 EUR/h

Lodging according to costs

Company vehicle 1,20 EUR/km

In case that under special circumstances, means of public transportation are used, the costs thereof are calculated according to expenses.

In case that special charges are incurred, they will be calculated according to expenses.

If the assembly work is not finished by the weekend and legal holidays, the Purchaser shall compensate the technical personnel for the travel times back and forth according to the rates listed above. In exceptional cases, the Purchaser may make other arrangements in agreement with the technical personnel.

THIELMANN UCON may decide to take out assembly insurance, the costs of which are charged to the Purchaser.

In the event of a workplace accident, the accident day must be paid in full. The per diem allowance in case of inability to work will be handled according to the assembly labor agreement.

## **3. OVERTIME PREMIUM**

The first two hours on weekdays + 25 %

Additional hours, and Saturdays + 50 %

On Sundays + 70 %

On legal holidays +150 %

## **4. SIGNING OFF THE INSTALLATION REPORTS**

We are requesting for you to sign off the working times for each of the technical personnel on the installation report forms provided which includes any idle hours and their causes, regardless of who will be charged for these expenses.

## **5. ON-SITE PREREQUISITES FOR THE ASSEMBLY**

Each additional expense attributed to the non- fulfillment of these prerequisites may be charged additionally.

The following assembly prerequisites must be fulfilled in order to ensure a timely delivery:

Premises:

- Sufficient lighting of the assembly site during the assembly process
- Static dimensioning and suitability test of the floor plate according to the requirements
- Construction site must be easy to reach and circumnavigate by truck and truck-mounted crane
- Adequate storage facilities for materials

- Concrete quality of the ground: at least B 25 and suitable for placement of chemical adhesive anchors (seating depth approx. 120 mm)
- Clean, well-swept building, dry concrete floors
- Surface quality: Unfinished floor
- Floor plate temperature: At least + 4°C to facilitate the insertion of the adhesive anchors
- The location and function of any building joints, if existent, must be made known to THIELMANN UCON
- Provision of forklift and forklift personnel supplied by the Purchaser for the transport of the installation and its assembly
- Provision of mounting frame, ladder platform and hydraulic hoist
- On-site provision of dressing rooms and toilet facilities

#### Supply Engineering:

- Electrical installation to the infeed at the control cabinet of the assembly
- The system voltage (230/400 V) to the power supply must have a tolerance range of between +10/-6 % (according to DIN IEC 38, dated May 87)
- The on-site power supply must be in line with the grounding of the installation
- Heating, lighting, on-site power supply (at least 63 A) must be ensured
- Water including the required connections on location during the entire installation time
- Grounding of the control cabinet and in- stallation
- Compressed air connection, at last 5 bar, dry and oil-free

#### Prior to Assembly Start:

- Please name a contact person responsible for the implementation of the work to be done. THIELMANN UCON employees have been directed not to follow orders of third parties.
- The construction site must be free of any type of harmful or explosion-hazardous atmosphere and environment during the assembly and the start-up.
- Prior to the start of the assembly within ex- proof or cleanroom areas, our personnel shall be handed out a fire authorization certificate or a corresponding permit.
- Safety-related instructions of our personnel by the on-site personnel must be announced and arranged prior to the operation.
- Please advise us if any additional work gear is required (helmets, gloves, safety glasses)
- Special assembly conditions must be communicated to us in a timely manner (respiratory equipment)
- Notification of any completed assembly work by third parties must be communicated to us
- The assembly must proceed without interruption
- Postponements as a result of construction delays or any other grounds must be communicated to us at least 30 days prior to assembly start