

## **A/C AirCon Service UG (limited liability Company) General Terms and Conditions**

(Please note that this is a translation of the German „Allgemeine Geschäftsbedingungen“. The German version is authoritative.)

### **1. General matters**

1.1 The company provides all goods and services solely in accordance with the following General Terms and Conditions.

1.2 Our services and deliveries occur solely in accordance with these General Terms and Conditions. Any deviating terms and conditions of the customer shall apply only if we expressly and in writing consent to such terms and conditions. Our General Terms and Conditions apply also if we deliver or perform our services without reservations even if we are aware of deviating terms and conditions of the customer.

1.3 The General Terms and Conditions also apply to all future business with the customer.

### **2. Scope of service**

2.1 The relevant agreement for the scope of the service or delivery shall be the confirmation of an order and not any previous offer. We will only be bound by additional terms or deviations if we have agreed to them.

2.2. The customer shall be responsible for obtaining any relevant (business-) licenses from the relevant authorities, such as supervisory bodies or the technical inspection agency (TÜV).

### **3. Delivery**

3.1 We shall be entitled to make reasonable partial deliveries or render partial services. Early deliveries of goods or performance of services shall be permitted, if this is not grossly unreasonable towards the customer.

3.2 Cost for subsequent modifications or additions to the place and time of delivery introduced by the customer will be borne by the customer and reimbursed to us.

3.3 The place of performance for deliveries and payments shall be our legal domicile. In case of delivery including the provision of a service on site, the place of performance will be the place where the service is rendered. If the customer chooses to have the goods sent to him, the risk passes to the customer at the time the delivery was handed over to the person effecting the transport or after the goods left the warehouse. The passage of risk is independent of whether the goods are sent from the place of performance or the fact who bears the costs of shipment. If shipment is delayed without our responsibility, while the goods are ready to be shipped, the risk passes to the customer with the announcement of readiness for dispatch. In all other cases, the risk passes to the customer upon delivery.

### **4. Price**

4.1 Unless agreed otherwise the binding price is the price that was mentioned on our pricelist on the date when the contract was concluded. Additional deliveries and performances will be invoiced according to the pricelist that was binding on the day of the contract, unless agreed otherwise.

4.2 In case the installation is included in the price, those costs are based upon the average time required for this service taking into account the original order. All required time for installation that goes beyond this initially calculated time will be charged additionally.

4.3 Storage, packaging and installation are included in the price. Value Added Tax (VAT) is not included.

### **5. Payment**

5.1 Travel costs are excluded from our hourly rates. An additional rate of EUR 0,80(excl. VAT) is charged per lineal kilometre.

6.4 Processing of our goods or

5.2 In case travel expenses arise in the completion of several orders, the costs will be charged according to the relative costs that would have arisen, if the orders had been carried out separately.

5.3 Invoices are due for payment within 14 days after invoicing without any deductions (net value).

5.4 Orders that exceed a net amount of EUR 2 500, 00 are to be paid as follows: 30% due upon confirmation of the order, 30% due upon delivery of the goods and 40% due when the final invoice is received.

5.5 In case of multiple claims the order of amortization may be determined after payment. The applicability of sections 366 and 367 of the German Civil Code (BGB) is excluded.

5.6 Payments are to be made so that the payment is received within the designated period for payment (5.3). Cheques are only accepted on account of performance.

5.7 In case of default, the customer has to pay interest according to the applicable terms unless we prove a higher amount of interest damage.

5.8 If the customer defaults on his payment obligations, stops to pay or other circumstances come to our attention that indicate the deterioration of the customers financial situation, we may declare all claims due immediately and require consideration or security.

5.9 The customer is only entitled to balancing, withholding or deducting, independent of complaints or possible counterclaims, if the counterclaims have been determined legally binding.

7.2 If delivery or performance is

## 6. Retention of title

6.1 The delivered goods remain our property until receipt of full payment or satisfaction of all claims according to the contract. If the customer is a public legal person, a public trust or an entrepreneur the retention of title will remain in force concerning the respective goods until all open claims are satisfied or a security for the open claims is provided.

6.2 In case the customer breaches the contract, especially fails to pay, we are entitled to withhold or require return of the goods or services. If we take back the goods, we withdraw from the contract. The customer has to inform us immediately about attachment or confiscation or similar measures in the context of an execution of title, so that we can file for a writ according to section 771 of the German Code of Civil Procedure. The customer is responsible for all our judicial and extrajudicial costs, regardless of whether he participated in the proceedings.

6.3 To protect our claims the customer will preventively assign all demands, resulting from the resale or another legal argument regarding the goods, to us, regardless of whether the goods have been processed. We expressly waive the acceptance of an agreement of assignment. We revocably entitle the customer to collect the demands assigned to us under his own name, but for our invoice. We are still entitled to execute the claims, but we will refrain from doing so, if the customer pays in accordance with the contract. If the customer is in default, we can require full disclosure of all assignments, including all necessary information for enforcement. The customer will then be required to inform the third parties of the assignments. The customer may neither pledge, nor make the delivery item over to someone for security reasons. The customer is obliged to secure our claims in case of resale.

materials by the customer is always done for us. If the goods are combined with other materials creating a new good, we are entitled to partial ownership of the new good, proportional to the value of the goods, in relation to other materials used, at the time of processing. For all remaining matters the same provisions apply to the new good, as to the original good.

6.5 If the goods are combined with other materials creating a new good, we are entitled to partial ownership of the new good, proportional to the value of the goods, in relation to other materials used, at the time of processing. The new good will belong mainly to the customer. It is agreed that the customer will transfer a partial ownership of the new good to us, while the customer is administering the partial ownership for us.

6.6 The customer will transfer any claims against third parties that arise from mixing of the goods with other materials to us, to secure our claims on the original goods.

6.7 We agree to release securities upon request of the customer, if their value exceeds the value of the secured claim by 20%, in case the claims are still due.

## 7. Time of delivery and performance

7.1 The time of performance is set, once all required materials for performance are received by us, e.g. plans and licences. Deadlines are not binding until those materials are received.

delayed or hindered by *force majeure* and other circumstances beyond our control, e.g. strikes of our suppliers or public orders, we shall not be liable, even if the circumstances concern our suppliers or sub-suppliers. The deadlines for delivery or performance will be prolonged for the period of disturbance with an additional amount of time. If the disturbance is likely to last a longer period of time, without rendering our performance impossible, we may abandon our services and request payment for the service rendered before, which includes services that were included in the prices of goods that were not delivered. If the circumstances last longer than 3 months, either party may withdraw from the contract after 3 months.

If delivery is delayed for reasons outside of the customer's responsibility, the guarantee begins 14 days after the announcement of readiness for dispatch.

## 8. Guarantees

8.1 The statute of limitation for the claims of the customer concerning defective goods passes after one year of delivery or performance, subject to binding legal provisions, (e.g. sections 438 par.1 no. 2 and 634 a par.2 German Civil Code (BGB)). If the contract includes installation the guarantee begins with initial operation by our employee or the customer, but not later than 3 months after delivery.

8.2 Claims relating to obvious defects of the goods are excluded from the guarantee, if there is no complaint within 2 weeks after the customer could inspect the goods. A defect is obvious when an average customer, who is not overly familiar with the contract, could have detected the default upon proper inspection. If the customer is an entrepreneur, the duties according to section 377 German Commercial Code shall remain intact.

## 9. Withdrawal and damages

8.3 There is no guarantee for normal wear and tear typical of consuming, defects caused by improper use, especially in violation of the instructions of the manufacturer, electric impacts (including fluctuations of current) or improper storage by the customer prior to installation.

8.4 If period defects of our products or services are removed during the guarantee period without prior notice to us, the customer cannot claim to recover the costs from us. If we are asked to inspect or remove the defect, and we notice that we cannot be held responsible for the defect, the person who asked us to inspect the matter, will be liable for all our costs, even if a third party is responsible for the defect.

8.5 If we deliver products for build in into a construction, the customer has to ensure that the necessary requirements for build in are met or can be established. This refers, in particular, to proper isolation in the rooms, according to technical cooling standards. The customer has to prove that all requirements were met before installation.

9.1 If the customer is in default or the delivery of our services is impossible, we have the right to withdraw partially or entirely from the contract, without giving the customer a deadline to cure the default. The customer cannot claim damages based on our withdrawal or the impossibility of delivering our service, unless it was legally established that we acted reckless or intentional.

9.2 If the financial situation of the customer deteriorates significantly, or we receive an offer to settle the customer's debt or any other type insolvency or pre-insolvency proceeding is initiated towards the customer, we may ask for a security deposit covering the entire value of the order or withdraw from the contract.

9.3 If the customer withdraws from the contract or refuses to accept the requested services or products without due cause, we claim a lump sum of 25% of the purchase price (plus VAT) as damages. The customer may prove that our actual damages were less than that sum.

#### **10. Choice of Law/ Jurisdiction**

German law applies to all matters relating to contracts that were concluded with us, except for the German Private International Law and the United Nations Convention on Contracts for the International Sale of Goods. If the customer is an entrepreneur within the meaning of the German Commercial Code, a legal person or a public trust, the jurisdiction for any dispute shall be the jurisdiction of our legal domicile. We reserve the right to also pursue the customer legally in the jurisdiction of his legal domicile.