

General Service Terms and Conditions of ICS Cool Energy GmbH

For use in business transactions between entrepreneurs

1. General Information

- 1.1. These General Service Terms and Conditions (GTC) apply to all service-related business relations with our customers. They also apply to all future services or offers to the customer, even if they are not agreed again separately.
- 1.2. The general terms and conditions of the customer or third parties shall not apply, even if we do not individually object to their validity. Even if we refer to a letter that contains or refers to the general terms and conditions of the customer or a third party, this does constitute an acceptance of this terms and conditions.
- 1.3. Individual agreements with the customer (including collateral agreements, additions and amendments) which have been made in an individual case shall in any case take precedence over these GTC. For the content of such agreements a written contract or our written confirmation shall be decisive.
- 1.4. Regulatory or other approvals must be provided by the customer at his expense. The customer bears also our costs if we assist the customer in this regard.
- 1.5. Legal declarations and announcements, which the customer has to give towards us after conclusion of the contract (e.g. setting of deadlines, notice of defects), require written form.
- 1.6. The statutory provisions apply insofar as they are not directly modified or expressly excluded in these GTC. The contract procedures for construction work ("Vergabe- und Vertragsordnung für Bauleistungen", VOB) do not apply.

2. Conclusion of Contract

- 2.1. Our offers are binding, unless they are expressly marked as non-binding. Documents such as illustrations, drawings, data sheets are only roughly accurate in respect to dimensions and weight, as far as accuracy is not expressly confirmed in writing. The same applies to information contained in a brochure, catalogue or our internet presence. Unless otherwise stated in our offer, the offer is valid for 30 days from the date of the offer.
- 2.2. The order of the services by the customer is regarded as a binding acceptance of our offer, unless otherwise stated in the order.
- 2.3. We can demand reasonable remuneration for the preparation of a cost estimate if the contract is not concluded.

3. Scope of Performance, Obligations of the Customer

- 3.1. We do not render consulting services in the form of plant planning.
- 3.2. The customer alone is responsible for complying with all legal regulations and standards that are connected with the operation of the systems, including any necessary leakage control in accordance with the applicable regulations.

4. Time of Performance

- 4.1. Times of performance for the service work shall be agreed individually or communicated by us with our offer. Compliance with performance periods require the timely receipt of all details required from the customer necessary for the performance of the service as well as compliance with the agreed payment terms and other obligations. If these conditions are not fulfilled in due time, the deadlines are extended accordingly; this shall not apply if we are responsible for the delay.
- 4.2. If we are unable to meet binding deadlines for reasons we are not responsible for, we shall notify the customer without undue delay and at the same time inform the customer about the prospective new performance date.

5. Acceptance

- 5.1. Insofar as an acceptance has to take place according to the statutory provisions, this shall be deemed to have taken place if
- the delivery and, if the installation is agreed and owed by us, the installation is completed,
 - we have informed the customer of this with reference to the fiction of acceptance (“Abnahmefiktion”) according to this para. 5.7. and have asked for acceptance,
 - twelve workdays have elapsed since the delivery or installation, or the customer has begun to use the purchased item and in this case six workdays have elapsed since delivery or installation and
 - the customer has not declared an acceptance within a period of twelve workdays after delivery or installation for any reason other than for a defect we were informed about which makes the use of the purchased item impossible or substantially impaired.

6. Assembly and Commissioning

- 6.1. In case of delivery with assembly and/or commissioning of the purchased item the customer has to take over at his expense and provide in time:
- all earth, construction, masonry, chiselling and other work from outside the industry, including the required specialist and auxiliary workers, building materials and tools,
 - a plane, permanently fixed installation/storage surface for the unit,
 - the static inspection of the transport route as well as the installation location,
 - a suitable forklift or crane for loading or unloading,
 - the items and materials required for assembly and commissioning, such as scaffolding, lift equipment and other devices, fuels and lubricants,
 - energy and water at the site including the connections, heating and lighting,
 - measures to reduce sound and vibration,
 - water pipes including any required fittings,
 - discharge of condensate,
 - electricity supply to the main switch, incl. inserting, placing and locating surface (strain-relief mounted),
 - required signal and other related performances, including inserting, placing and locating surface (strain-relief mounted),
 - cleaning, rinsing, filling and venting of the water systems before the refrigeration commissioning,
 - isolation of cold and hot parts if not offered separately by ICS-CE,
 - providing of resources such as water, antifreeze and electricity during time of assembly and commissioning,
 - hydraulic balancing of the water system and other adjustment works,
 - required additional commissioning and instructions not owed by us,
 - protective clothing and protective devices etc. which are necessary as a result of special circumstances of the assembly site.

- 6.2. Prior to the start of the installation work, the customer has to provide us unrequested with the necessary information on the location of concealed electricity, gas, water pipes or similar installations, the necessary static data as well as details of specialties which might prevent a smoothly installation, assembly and commissioning.
- 6.3. Access routes and the place for installation and assembly must be freely accessible, plane, cleared and open to traffic by trucks.
- 6.4. The customer shall bear the costs for the time of waiting and additional required travels to an appropriate extent if installation, assembly or commissioning is delayed by reasons for which we are not responsible.
- 6.5. The customer shall certify the hours worked by our employees and other persons appointed by us on a daily basis. If he does not fulfil this obligation or fails to do so in due time, our records are used as the basis for the invoice.
- 6.6. Insofar as assembly and commissioning is owed according to the contract, the systems installed by us shall be adjusted after assembly and the customer's operating personnel are familiarized with the proper operation. We shall coordinate the dates required with the customer. After completion of the regulation and instruction, the customer has to confirm in writing the correct completion of the work; any complaints and subsequent special requests shall be recorded in a protocol to be signed by both parties.

7. Limitation period, Warranty

- 7.1. Claims arising out of material or legal defects shall be time barred in one year. The period starts with delivery or, as far as an acceptance takes place, from the date acceptance. The limitations of this para 7.1. (limitation period, warranty) shall not apply to claims for damages by the customer resulting from injury to life, body or health or from intentional or grossly negligent breach of duty by us, our legal representatives or our vicarious agents. Furthermore, the limitations of this clause 7.1. (limitation period, warranty) shall not apply if we have maliciously concealed a deficiency or have assumed a guarantee for the quality of the goods and for claims of the customer according to the Product Liability Act.
- 7.2. Defects or complaints must be made in writing immediately after the performance has been rendered. They are considered as accepted regarding obvious defects or other defects which would have been noticeable in the case of an immediate, careful investigation if we do not receive a written complaint immediately after the performance has been rendered. In respect of other defects, the performance shall be deemed to be approved by the customer, if the complaint is not received by us within seven working days after the point in time the defect was noticeable; if during normal use the defect was noticeable for the customer at an earlier point in time, this earlier date is decisive for the commencement of the period for complaints.

8. Liability for Damages Due to Fault

- 8.1. Our liability is governed by statutory provisions, unless otherwise stated in these GTC.
- 8.2. We shall not be liable in the case of simple negligence on the part of our corporate bodies, legal representatives, employees or other vicarious agents, insofar as this is not a violation of essential contractual obligations. Essential contractual obligations are obligations to deliver the good in time and, if owed, installation of the delivered item, the non-existence of legal defects which affect the functionality or usability more than just insignificant, as well as protection or duty of care obligations, which should enable the customer to use the delivered item in accordance with the contract or which

purpose is the protection of the body or life of the customer's personnel or the protection of his property against serious damages.

- 8.3. As far as we are liable for damages according to para 8.2. the liability is limited to damages which we have foreseen at the conclusion of the contract as possible consequence of a breach of contract or which we should have foreseen in the application of customary diligence. Indirect damages and consequential damages, which are the result of deficits of our performance, are further only eligible for compensation as far as such damage has typically to be expected in case of deficits of our performance.
- 8.4. The aforementioned exclusions and limitations of liability apply to the same extent to our corporate bodies, legal representatives, employees and other vicarious agents.
- 8.5. To the extent we provide technical information or act as an adviser and this information or advice is not part of the contractually agreed scope of performances we owe, this shall be free of charge and without any liability.
- 8.6. The limitations of this clause 8. (liability for damages due to fault) shall not apply if we have maliciously concealed a defect or have assumed a guarantee for the quality of the services and for claims of the customer according to the Product Liability Act. The limitations of this clause 8 (liability for damages due to negligence) shall also not apply to our liability for intentional or grossly negligent breach of duty and for damages from injury to life, body or health; this also applies to breaches of duty by our legal representatives or vicarious agents.

9. Prices, Terms of Payment

- 9.1. The prices are valid for the scope of supply and services described in the offer or in the order confirmation. Additional or special performances (e.g. construction, installation, commissioning, not listed in the offer or order confirmation) will be invoiced separately. The prices are in EURO plus VAT.
- 9.2. If the offer, the order confirmation or the invoice does not contain another date of payment, the price (without deduction) is due for payment immediately upon receipt of the invoice. A cash discount is only permitted if expressly agreed. If in individual cases a cash discount has been agreed, this is admissible if the customer is in arrears with the payment of another invoice.
- 9.3. We are entitled to carry out outstanding deliveries or performances only against payment in advance or security payment if we get aware of circumstances which considerably reduce the creditworthiness of the customer and by which the payment of our outstanding claims by the customer is at risk.
- 9.4. If the customer is in default with his payment obligation, the purchase price bears interest during this period in the amount of the applicable statutory interest rate. We reserve the right to claim further damages for the delay. Towards merchants our claim to the commercial interest rate (§ 353 HGB) remains unaffected.
- 9.5. All invoice amounts are payable in one amount immediately after the invoice has been issued. Partial payments for deliveries are only possible if they have been agreed in writing previously.
- 9.6. The customer has only the right to set-off or retention rights insofar as his claim is legally binding or undisputed. In the case of defects regarding the delivery, the customer's counter-rights remain unaffected.
- 9.7. We do not provide construction services within the meaning of § 48 para. 1 EStG or § 13b para. 2 UStG. The invoice amount must therefore be paid to us in full without deduction.

10. Applicable Law, Jurisdiction

- 10.1. The relations between us and the customer are exclusively subject to the law of the Federal Republic of Germany. The United Nations Convention on Contracts for the International Sale of Goods of 11 April 1980 (CISG) does not apply.
- 10.2. Exclusive – also international – place of jurisdiction for all disputes arising directly or indirectly from the contractual relationship is our place of business. However, we are entitled to bring an action at the general place of jurisdiction of the customer. Prior statutory provisions, in particular exclusive competences, shall remain unaffected.

10. Final Provision (Severability Clause)

In case a clause of the above GTC is invalid, the concluded contract shall remain valid. Instead of the invalid clause, the corresponding legal provisions have to be applied.