

# ATLANTA AIR CARE TERMS AND CONDITIONS

**1. CHANGES IN THE WORK.** "Extra Work" is any work requested by Customer, or required by a construction lender, public body or inspector, or is found reasonably necessary by Atlanta Air Care to complete the work due to any site condition or work circumstance. The contract price shall be reasonably adjusted for Extra Work by Atlanta Air Care. Change Orders become part of this Contract once the Change Order is prepared in writing and agreed by the parties. Change Orders describe the scope of the Extra Work or change, the cost to be added or subtracted from this Contract, and the effect the change will have on the schedule of progress payments. Failure to have written authorization shall not excuse Customer's obligation to pay for all work undertaken in good faith by Atlanta Air Care.

**2. RESPONSIBILITIES OF THE PARTIES.** Customer has a duty to advise Atlanta Air Care of any unsafe, unusual or impedimentary site conditions that may interfere with safe and efficient work performance. Atlanta Air Care shall promptly notify Customer of any such site conditions, any that differ materially from as indicated in this Contract, or differ materially from those ordinarily encountered and generally recognized as inherent in work of the kind due under this Contract. Customer shall pay for Extra Work necessary due to such conditions. Customer is responsible to provide safe site access, supply water, gas, sewer and electrical utilities and provide toilet facilities all unless otherwise agreed to in writing. Customer warrants to have sufficient funds to pay for all charges under this agreement. This is a cash transaction (which may be paid by debit card or credit card or other immediate payment form acceptable to Atlanta Air Care) unless otherwise specified. Customer is responsible to remove or protect any personal property, for which Atlanta Air Care is not responsible, nor is Atlanta Air Care responsible for any driveways, lawns, shrubs, etc. Customer shall point out and warrant all property lines to Atlanta Air Care. For any work that may require penetration of the surface of the site, Customer is responsible to contact the Utilities Protection Center at 811 to have the site marked for utilities. Atlanta Air Care may delay work if the Customer has failed to timely do so and may charge for any extra site visits or Extra Work due to any such failure.

**3. DELAYS.** Atlanta Air Care agrees to start and diligently pursue work through to completion, but shall not be responsible for delays for any reason beyond its control, including but not limited to: failure or delay of issuance of all necessary building permits, funding of loans, disbursement of funds into funding control or escrow, negligence or malfeasance of Customer including Customer's employees, contractors and/or agents, Acts of God, stormy or inclement weather, labor disputes, Extra Work, the public enemy, riots or civil commotion, inability to secure material through regular recognized channels, government action, or Customer failure to make any payment when due.

**If the contract is delayed indefinitely or terminated through no fault of Atlanta Air Care a 15% restocking fee will apply to all purchased equipment and materials.**

**4. PLANS & SPECIFICATIONS.** All plans and specifications prepared under this Contract, if any, shall be attached to and become a part of this Contract.

**5. SUBCONTRACTS.** Atlanta Air Care may subcontract any portions of this work to properly licensed and qualified subcontractors.

**6. FEES, TAXES AND ASSESSMENTS.** Customer will pay for all taxes and assessments, imposed by any authority on account of or in relation to this Contract and any of the work or goods under this Contract. Atlanta Air Care will obtain all required permits, but Customer will

pay assessments and charges required by public bodies and utilities for financing or repaying the cost of sewers, storm drains, water service, schools and school facilities, other utilities, hook up charges and the like.

**7. INSURANCE.** Customer warrants that Customer has comprehensive and public liability insurance coverage in force on the site where work is to be performed in the amount of not less than \$250,000. If the project or the site is destroyed or damaged by accident, disaster or calamity, such as fire, storm, earthquake, flood, landslide, or by theft or vandalism, any work done by Atlanta Air Care as a result thereof shall be paid by the Customer as Extra Work. Mold, mildew, and fungi contamination is not covered under any warranty or insurance of Atlanta Air Care and remains Customer's risk.

**8. RIGHT TO STOP WORK.** Atlanta Air Care shall have the right to stop work if any payment is not paid to Atlanta Air Care in good funds when due. Atlanta Air Care may remain idle without terminating for cause (as provided below) until all payments due are received. This remedy is in addition to any other right or remedy of Atlanta Air Care. Any failure to make payment when due, is a material breach of this Contract. All additional costs and any additional work resulting from delay and/or stopping and restarting work shall be chargeable as Extra Work.

**9. CLEAN-UP.** Atlanta Air Care will remove from the work site debris and surplus material due to its work, and shall leave the site in no worse condition than when work began.

**10. LIMITATIONS.** No action of any character arising from or related to this Contract, or the performance thereof shall be commenced by either party against the other more than two years after completion of the project or cessation of work under this Contract.

**11. ATTORNEY FEES.** In the event of any breach or enforcement action under this Contract in which Atlanta Air Care prevails in whole or in any part, Atlanta Air Care shall be entitled to collect all costs thereof, including but not limited to reasonable attorney fees.

**12. PAYMENT.** Upon satisfactory payment being made for any portion of the work performed, Atlanta Air Care shall, prior to any further payment being made, furnish to the persons contracting for the improvement, a full and unconditional release from any claim or Mechanic's Lien pursuant to Section 3114 of the Civil Code, for that portion of the work for which payment has been made. If any payment is not made when due, in addition to all other rights, Atlanta Air Care may proceed with lien rights.

**13. ASBESTOS AND HAZARDOUS WASTE.** Unless this Contract specifically calls for the removal, disturbance, or transportation of asbestos or other hazardous substances, the parties acknowledge that such work requires special procedure, precautions, and/or licenses, meaning that if Atlanta Air Care encounters any such substance, Atlanta Air Care shall immediately stop or limit work to permit the Customer to obtain duly qualified assistance to remediate the hazard, or Atlanta Air Care may perform or subcontract the work at Atlanta Air Care's option. Any additional work resulting from such hazard, delay and/or stopping and restarting work shall be chargeable as Extra Work.

**14. GUARANTEES:** The *ATLANTA AIR CARE CUSTOMER CARE GUARANTEES* provided separately are incorporated in this Contract, *BUT BECOME EFFECTIVE ONLY WHEN PAYMENT IN FULL HAS BEEN RECEIVED IN GOOD FUNDS BY ATLANTA AIR CARE.* Please be sure to read Part II of the *GUARANTEES*.