

# General Terms and Conditions of Sale

## Article 1 Applicability

1.1 These general terms and conditions apply to all offers and purchase agreements for goods and/or services (hereinafter referred to as “products”) whereby Atlas Copco Korea Co.Ltd with registered office at 8Fl. Yemizi Bldg, 661 Sampyeong-dong, Bundang-gu, Seongnam-si, Gyeonggi-do, South Korea (hereinafter referred to as “Atlas Copco”) acts as supplier or seller, respectively.

1.2 Deviations from these general terms and conditions can only be agreed upon in writing.

## Article 2 Establishment of purchase agreements

### 2.1 Offers

An offer by Atlas Copco is free of obligation, unless the offer expressly states the contrary.

### 2.2 Agreements

If the agreement is concluded in writing, it shall be established on the day the contract is signed by Atlas Copco.

2.3 Acceptance by Atlas Copco may take place through any means of communication. This also applies if the buyer's order was placed by electronic means. Acceptance of the order placed by the buyer can also take place by means of the products being sent to the buyer.

2.4 By placing a future order, the buyer accepts the applicability of these general terms and conditions,

## Article 3 Prices

3.1 The prices are net in Korean Won, excluding VAT, all applicable tax and “DDP” (Incoterm 2020) or other local duties and expenses.

In case that the price is agreed in a currency other than Korean Won and the average exchange rate of KEB Hana Bank between Korean Won and the relevant currency fluctuated by  $\pm 5\%$  or more between the date of quotation or establishment date of purchase agreement and the date of delivery, Atlas Copco reserves the right to amend the price by any amount to cover fluctuation in the exchange rate between the relevant currency and Korean Won arising between the date of quotation or establishment date of purchase agreement and the date of delivery

3.2 If, after the date of establishment of the agreement, one or more of the cost price factors undergo an increase – even if this occurs due to foreseeable circumstances – Atlas Copco shall be entitled to increase the agreed price accordingly.

3.3 Packaging is included in the price, unless this concerns seaworthy packaging.

Seaworthy packaging shall be invoiced separately. Packaging shall never be taken back.

## Article 4 Delivery/delivery times

4.1 The “most recent Incoterms”, issued by the International Chamber of Commerce, apply to the interpretation of the delivery terms and conditions. Delivery shall take place in accordance with the Incoterm listed in the written order confirmation. The default shall be Ex-Work, unless otherwise agreed between the parties.

4.2 The delivery time shall start on whichever of the following dates comes last:

- a. the day of the establishment of the agreement;
- b. the day Atlas Copco receives the documents, information, permits, etc. necessary for executing the order.
- c. the day the formalities necessary for starting the work are fulfilled;
- d. the day Atlas Copco receives that which needs to be paid according to the agreement prior to the start of the work by means of advance payment. If a delivery date or week has been agreed, the delivery time shall encompass the period between the date of establishment of the agreement and the delivery date or week.

4.3 The delivery time is based on the work conditions applicable at the time the agreement was concluded and on timely delivery of the materials needed for the work that was ordered in a timely manner. Should these materials not be delivered in a timely manner, the delivery time shall be extended if required in Atlas Copco's estimation. Atlas Copco shall inform the buyer of this in a timely manner.

4.4 All delivery periods specified by Atlas Copco are target delivery periods and are therefore not deadlines, unless expressly otherwise agreed.

4.5 The products shall be considered as delivered with regard to the delivery time if delivered in accordance with the agreed Incoterm.

4.6 The delivery time shall also be extended by the duration of the delay that occurred due to the buyer not fulfilling an obligation stemming from the agreement or cooperation to be required of the buyer relating to the performance of the agreement.

4.7 Except for gross negligence on the part of Atlas Copco, exceeding the delivery time shall not give the buyer the right to full or partial dissolution of the agreement. Exceeding of the delivery time – for any reason whatsoever – shall not entitle the buyer to, without court authorization, perform work (or cause work to be performed) to carry out the agreement. If the delivery time is exceeded, the buyer shall not be entitled to any damage compensation.

Irrespective of the provisions of this article, Atlas Copco is entitled to suspend fulfillment of its obligations towards the buyer as long as the buyer has not fulfilled all of his (payment) obligations arising from an existing legal relationship with Atlas Copco. This suspension shall apply until the moment the buyer has entirely fulfilled his obligations towards Atlas Copco. Any agreed delivery time shall be extended by the suspension by the duration of the suspension.

#### **Article 5** Transfer of risk and ownership

5.1 Once the products have been delivered in the sense of Article 4, and in accordance with the applicable Incoterm, the buyer shall assume the risk for all direct and indirect damage that may occur to or by these products, except for if this is attributed to gross negligence on the part of Atlas Copco. If, after notice of default, the buyer remains in default with regard to purchasing the products, Atlas Copco shall be entitled to bill the buyer for the costs of storing the products. In addition, the buyer shall owe the legal interest plus 3% over the entire outstanding amount from the delivery date to the date of purchase, as long as no payment of the purchase price has been made as agreed in the purchase agreement.

5.2 Irrespective of the provisions of the previous paragraph and the provisions of Article 4, ownership of the products shall not be transferred to the buyer until the amount owed to Atlas Copco arising from deliveries or work, including interest and costs, has been paid in full to Atlas Copco.

5.3 At Atlas Copco's first request, the buyer shall be obligated to provide an alternative security to Atlas Copco if Atlas Copco's retention of title lapses for any reason whatsoever.

5.4 If appropriate, Atlas Copco shall be entitled to unimpeded access to the products. The buyer shall grant Atlas Copco all cooperation in order to enable Atlas Copco to exercise its retention of title as specified in paragraph 2 by taking back the products, including any disassembly required for this.

**Article 6** Payment

6.1 Payment shall take place after delivery, within 30 days of the invoice date, unless partial payments have expressly been agreed at times preceding the delivery. If so, payment shall be made, after receipt of the invoice, before or at the agreed upon moment. In the event of late payment, the buyer shall be in default by operation of law without this requiring any notice, and the buyer shall be obligated to pay the legal interest plus 3% over the amount owed for the duration of the period the buyer is in default as well as all legal fees and extrajudicial costs incurred for the collection of his claim, whereby the extrajudicial costs shall be reasonably set at 10% of the outstanding amount, without prejudice to Atlas Copco's right to charge the buyer the actual costs incurred, including any legal fees, should these exceed the thus calculated amount. All payments must be made without any deduction or offset to the office of Atlas Copco or to an account designated by Atlas Copco.

6.2 Without Atlas Copco's express written consent, the buyer is not permitted to offset his payment obligation to Atlas Copco with a claim from the buyer against Atlas Copco, for any reason whatsoever.

6.3 Atlas Copco has the right to demand advance payment, cash payment or a security for the buyer's payment at any time.

**Article 7** Inspection, verification, testing

7.1 The products shall be carefully inspected and tested by Atlas Copco prior to delivery.

If additional inspections, verifications or tests have been agreed, Atlas Copco shall determine the time at which these can be performed and shall notify the buyer of this. The buyer or a representative designated by buyer is authorized to be present during the inspection, verification or testing. The inspection, verification or testing shall be performed regardless of whether the buyer makes use of the above-mentioned authorization. The results shall be made available to the buyer.

7.2 If the inspection, verification or test has to be performed entirely or partly by one or more persons who are not employed by Atlas Copco and these persons do not show up at the designated time, then the inspection, verification or test shall be deemed to have taken place to the satisfaction of the buyer, unless the buyer states that the inspection, verification or test still needs to take place within 3 days after the buyer became aware of the no-show.

7.3 If and to the extent that verification and/or inspection in Atlas Copco's premises by Atlas Copco has not been agreed, the buyer shall test the products at the latest by 5 days after delivery as stipulated in Article 4, unless a longer time period has expressly been agreed.

7.4 If this time period has lapsed without written and specified notification of justified complaints, the products shall be deemed as having been accepted.

7.5 Without prejudice to Atlas Copco's obligation to fulfill its warranty obligations, acceptance according to the previous paragraphs shall exclude any and all claims of the buyer regarding a shortcoming in Atlas Copco's performance.

7.6 The presence of a defect shall never entitle the buyer to suspend or set off his payment obligations regarding delivered or provided goods, products or work rendered and/or services.

**Article 8** Usage properties, warranties

8.1 The values of the usage properties as indicated by Atlas Copco with regard to equipment are based on Atlas Copco's experiences and such as Atlas Copco would expect under the circumstances of standard testing by Atlas Copco. These tests are based on internationally accepted standards.

8.2 It is the buyer's responsibility to determine whether the capacity and the usage properties of the equipment is suitable and legally permitted for the buyer's intended use. Atlas Copco assumes no liability in this regard.

8.3 If, at delivery, the equipment does not appear to achieve the values (taking into account the tolerances listed for these values), as referred to under 8.1, then the buyer shall give Atlas Copco the opportunity to take such measures, within a reasonable time period, that these values shall be met. If the latter is impossible, Atlas Copco shall have the choice to either replace the equipment with equipment that does achieve the agreed values, or to take the equipment back under reimbursement of that part of the purchase price that has already been paid, without Atlas Copco being obligated to pay any compensation for damage.

8.4 Without prejudice to the stipulations in the previous paragraphs, Atlas Copco has no other obligations with regard to the products delivered by it that stem from its warranty obligation as described below and/or described in the warranty certificate supplied with the products, provided that the terms and conditions stated therein are observed.

8.5 If equipment exhibits defects due to the use of faulty material or faulty workmanship within a period of 12 months after delivery, as referred to in Article 4, paragraph 3, then Atlas Copco shall have the choice of repairing or replacing the products, provided that:

- a. the buyer or end-user has followed Atlas Copco's instructions for use, maintenance and operation,
- b. the defect is not the result of incorrect or incompetent use or of inexpertly performed acts on the products, and
- c. Atlas Copco has been notified of the defects in writing by the buyer or end-user within 5 days after the day the defects were discovered or reasonably could have been discovered.

8.6 Also outside the scope of the warranty are defects that are the result, entirely or in part, of:

- a. use of the products in a manner other than for the intended normal use,
- b. normal wear and tear,
- c. repair by third parties, including the buyer or end-user.
- d. third-party parts included by Atlas Copco, if the third party has not provided a warranty to Atlas Copco.
- e. Fleet link malfunction, since Atlas Copco doesn't provide any warranty to Fleet link of the equipment

8.7 For products located in South Korea, this warranty entails the costs of material and labor., if the repair takes place at Atlas Copco's workshop. For products located outside of South Korea, this warranty entails only the costs of material. If the buyer or end-user sends the products to a Korean or Belgian branch of Atlas Copco at his expense, and shipment and receipt take place in accordance with Atlas Copco's instructions, then the warranty entails the costs of material and labor.

8.8 If, at the time of repair or replacement of the product, more than six months have passed since the original warranty term, then the warranty period for the replaced or repaired parts shall be extended until six months after delivery of the replaced or repaired parts.

8.9 No warranty shall be provided for second-hand products, unless this is expressly mentioned in the agreement.

8.10 In the event of inadequate or untimely fulfillment of an obligation by the buyer, Atlas Copco shall not be subject to any warranty obligation.

## **Article 9 Liability**

9.1 Atlas Copco's liability is limited to fulfillment of the warranty obligations described in Article 8 of these terms and conditions.

9.2 With the exception of gross negligence on Atlas Copco's part and with the exception of the provision in the previous sentence, all liability on Atlas Copco's part, such as trading loss, other indirect damage and damage resulting from liability towards third parties, is excluded. Therefore, Atlas Copco is also not liable for:

- a. infringement on patents, licenses or other rights of third parties resulting from information provided by or due to the buyer;
- b. damage or loss, due to any reason whatsoever, of raw materials, semi-finished goods, models, tools and other items made available by the buyer.

9.3 If Atlas Copco, without being commissioned with the assembly, does provide assembly assistance and support – of any type whatsoever – this shall be at the buyer's risk.

9.4 If it is legally established that Atlas Copco, despite the provisions in paragraph 1 and 2, is nevertheless liable for damage, Atlas Copco's total liability shall be limited to compensation for direct damage up to a maximum amount that is equal to the stipulated price for that performance and/or delivery (excluding tax). If the agreement is (primarily) a long-term agreement with a term of more than one year, the aforementioned amount shall be set at the total of the compensations (excluding tax) stipulated for one year. However, in no case shall the total compensation for direct damage per year amount to more than 100 million Korean Won.

9.5 Atlas Copco's liability for damage due to death or physical injury or for material damage of goods shall in no case amount to more than the amount that is paid under Atlas Copco's insurance.

9.6 Atlas Copco's liability for indirect damage, including consequential damage, lost profit, lost savings, loss of production, loss of contract or clientele, damage due to business stagnation and any damage other than that specified in Article 9.4 and 9.5 is excluded at all times.

9.7 A condition for the existence of any right to compensation for damage is always that the buyer must report the damage to Atlas Copco as soon as possible after the damage occurs.

9.8 A series of related injurious events is considered as one event for the application of this article.

9.9 The buyer is obligated to indemnify Atlas Copco, respectively hold Atlas Copco harmless, regarding all claims of third parties for compensation for damage, for which Atlas Copco's liability in these terms and conditions in the relationship with the buyer is excluded.

#### **Article 10** Force majeure

10.1 A force majeure in the sense of Article 10 is defined as any shortcoming in the performance of the agreement that cannot be attributed to Atlas Copco because it is not the fault of Atlas Copco or the buyer, and which shall not be for the account of Atlas Copco or the buyer either by virtue of the law, legal act or conceptions commonly considered valid.

10.2 In the event of a force majeure, including the situation that a product ordered by the buyer is temporarily undeliverable, Atlas Copco shall be entitled to extend the intended delivery time in the sense of Article 4 with the time during which the temporary force majeure lasts.

10.3 In the event of a permanent force majeure, defined as a circumstance on which Atlas Copco or the buyer has no influence nor reasonably can have any influence and that makes delivery or provision of products or rendering of work and/or services impossible, Atlas Copco respectively the buyer shall be entitled to dissolve the agreement extrajudicially. In the event of a force majeure, the buyer cannot claim any compensation from Atlas Copco for any damage incurred by him.

#### **Article 11** Confidentiality, intellectual property

11.1 All rights to intellectual or industrial property as well as similar rights with respect to or regarding goods or products delivered and/or provided by Atlas Copco to the buyer or work and/or services rendered on behalf of the buyer shall be held exclusively by Atlas Copco.

11.2 The buyer is obligated to maintain confidentiality towards third parties of all drawings, descriptions, specifications, models, constructions, diagrams, technical documents and other business information as well as know-how in the broadest sense of the word, stemming from Atlas Copco that been brought to or that has come to his knowledge.

11.3 No provision whatsoever in the agreement concluded with the buyer or other agreements stemming therefrom between Atlas Copco and the buyer entails full or partial transfer to the buyer of the rights as stipulated in Article 11.1, unless expressly otherwise agreed in writing. The buyer recognizes these rights and shall refrain from any form of (in)direct infringement on these rights on pain of a penalty of 30 million Korean Won due and payable in full for each infringement or each week that the infringement continues, without prejudice to the other rights to which Atlas Copco is entitled in this regard, including the right to fulfillment and/or full compensation.

11.4 If the buyer notices that third parties have infringed on the rights set forth in Article 11.1. the buyer is obligated to immediately report this to Atlas Copco in writing. The buyer shall not take legal or extrajudicial action against such an infringement in any way whatsoever without the written permission of Atlas Copco. If Atlas Copco decides to take legal or extrajudicial action against the infringing third parties, the buyer shall lend all his cooperation to this as requested by Atlas Copco at Atlas Copco's expense.

#### **Article 12** Transfer or rights and obligations

Atlas Copco is entitled to transfer fulfillment of its obligations and/or exercising of its rights stemming from this agreement to one or more third parties. Atlas Copco shall inform the buyer in writing of such a transfer.

#### **Article 13** Non-fulfillment, dissolution

13.1 Atlas Copco has the right to dissolve the agreement with the buyer with immediate effect for the future by means of a written notification without (further) prior notice of default or to suspend further deliveries respectively performance of work and/or services without being obligated to any compensation, without prejudice to any further rights to which it is entitled, if:

a. despite proper notice of default, the buyer falls short in the fulfillment of any of his obligations;

- b. the buyer is granted suspension of payment (temporary or otherwise) or the buyer is declared in a state of bankruptcy, the buyer submits a request for the application of a legal reorganization or the buyer is placed in receivership or under administration or in a similar situation
- c. buyer's goods are impounded at the buyer's expense due to substantial debts and this impounding lasts longer than two months;
- d. the buyer stops his business operations in part or in whole or otherwise liquidates these and/or radically changes his business activities or transfers these to a third party without Atlas Copco's prior written permission.

13.2 All claims that Atlas Copco might have on the buyer in these cases shall be immediately and fully payable.

13.3 Atlas Copco shall never owe the buyer any compensation or payment due to the above-mentioned termination of the agreement, without prejudice to Atlas Copco's right to full compensation due to infringement by the buyer of his obligations as stated above and without prejudice to other rights to which Atlas Copco is entitled in this regard.

#### **Article 14** Delay, cancellation

14.1 If and to the extent that the buyer wishes to postpone receipt of the products, the buyer shall owe Atlas Copco storage costs for the entire delay period. This is without prejudice to the buyer's obligation to pay the entire purchase price to Atlas Copco in accordance with the provisions of Article 6. The storage costs shall be invoiced monthly to the buyer.

14.2 If and to the extent that the buyer wishes to cancel the purchase of the products, or wishes to cancel a product included in the purchase agreement, the buyer shall owe Atlas Copco compensation equal to the costs incurred by Atlas Copco up to the moment of cancellation, and this with a minimum of 30% of the purchase price.

14.3 Cancellation must take place by means of a registered letter from the buyer to Atlas Copco's address.

#### **Article 15** Compliance with trading rules

15.1 Every offer shall only be legally binding for the buyer after the buyer has placed an order and has received a written acceptance from Atlas Copco. Atlas Copco retains the right to withdraw this offer at any time.

15.2 By placing the order, the buyer declares that the ordered products shall not be used for any purpose associated with chemical, biological or nuclear weapons, nor for missiles that can transfer such weapons, nor for any other purpose that is prohibited by the applicable legislation. The buyer also confirms that the ordered products shall not be sold directly or indirectly or transferred to Iran, North Korea, Syria, Russia, Belarus, Crimea or any disputed region of Ukraine or Russia.

The buyer also declares that he shall comply with the applicable local and international foreign trade and customs regulations, as well as any embargoes and other trade sanctions (jointly "international trade obligations"). The buyer shall immediately inform Atlas Copco in writing of any violation of this declaration.

15.3 Atlas Copco is not obligated to fulfill a binding order or agreement, or any part thereof or associated with it, nor is Atlas Copco liable for the non-fulfillment thereof, if such fulfillment is hindered by obstacles stemming from obligations regarding international trade. Atlas Copco also retains the right to terminate a binding order or agreement, or any part thereof or associated with it, with immediate effect and without prior notification, if the fulfillment is hindered by obstacles stemming from any international trade obligations.

15.4 The buyer shall indemnify Atlas Copco for all direct or indirect damage stemming from infringement of this Article 15.

#### **Article 16** Applicable law, disputes

16.1 The laws of the Republic of Korea is exclusively applicable to the agreement and any further agreements., without giving effect to any choice or conflict of laws provision thereof.

16.2, All disputes that might arise from an agreement to which the present delivery conditions apply in part or in their entirety, or that arise from further agreements which stem from such an agreement, shall solely be adjudicated by Seoul Central District Court of Korea.