

Standard Conditions of Sale

GENERAL – Unless otherwise expressly agreed in writing by a duly authorized representative of Atlas Copco these terms and conditions supersede all other communications and agreements and notwithstanding any conflicting or different terms and conditions in any order or acceptance of Purchaser, all sales and shipments shall exclusively be governed by these terms and conditions. When used herein “affiliates” shall mean Atlas Copco AB and its wholly-owned subsidiaries. Section headings are for purposes of convenience only. “Products” as used herein shall include products, parts and accessories furnished Purchaser by Atlas Copco. Orders shall be subject to acceptance at Atlas Copco Compressors LLC’s principal corporate offices in Rock Hill, South Carolina.

DELIVERY – Unless otherwise agreed in writing, Products manufactured, assembled or warehoused in the continental United States are delivered F.O.B. shipping point, and Products shipped from outside the continental United States are delivered F.O.B. point of entry. Where the scheduled delivery of Products is delayed by Purchaser or by reason of any of the contingencies referred to in Section 5. Atlas Copco may deliver such Products by moving it to storage for the account of and at the risk of Purchaser. Shipping dates are approximate and are based upon prompt receipt of all necessary information and approvals from Purchaser. Atlas Copco reserves the right to make delivery installments.

SECURITY AND RISK OF LOSS - Upon request from Atlas Copco, Purchaser agrees to execute a security agreement covering the Products sold or other assets and to perform all acts which may be necessary to perfect and assure a security position of Atlas Copco. Notwithstanding any agreement with respect to delivery terms or payment of transportation charges, the risk of loss or damage shall pass to Purchaser and delivery shall be deemed to be complete upon delivery to a private or common carrier or upon moving into storage, whichever occurs first, at the point of shipment for Products assembled, manufactured or warehoused in the continental United States or at the point of entry for Products shipped from outside the continental United States.

PAYMENT – If Purchaser fails to pay any invoice when due, Atlas Copco may defer deliveries under this or any other contract with Purchaser, except upon receipt of satisfactory security for or cash in payment of any such invoice.

A service charge of the lesser of 1% per month or the highest rate permitted by applicable law shall be charged on all overdue accounts. Failure on the part of Purchaser to pay invoices when due shall, at the option of Atlas Copco, constitute a default in addition to all other remedies Atlas Copco may have under these conditions of sale or applicable law. If, in the judgment of Atlas Copco, the financial condition of Purchaser at any time prior to delivery does not justify the terms of payment specified. Atlas Copco may require payment in advance or cancel any outstanding order, whereupon Atlas Copco shall be entitled to receive reasonable cancellation charges. If delivery is delayed by Purchaser, payment shall become due on the date Atlas Copco is prepared to make delivery. Should manufacture be delayed by Purchaser, pro rata payments shall become due if and to the extent required at Atlas Copco by its contracts with the manufacturer. All installment deliveries shall be separately invoiced and paid for without regard to subsequent deliveries. Delays in delivery or non-conformities in any installment shall not relieve Purchaser of its obligations to accept any pay for remaining installments.

FORCE MAJEURE – Atlas Copco shall not be liable for loss, damage, detention, or delay, nor be deemed to be in default from causes beyond its reasonable control or from fire, strike or other concerted action of workmen, act or omission of any governmental authority or of Purchaser, compliance with import or export regulations, insurrection or riot, embargo, delays or shortages in transportation, or inability to obtain necessary engineering talent, labor, materials, or manufacturing facilities from usual sources. In the event of delay due to any such cause, the date of delivery will be postponed by such length of time as may be reasonably necessary to compensate for the delay.

NEW PRODUCT WARRANTY – Atlas Copco warrants to the Purchaser that all stationary compressors, portable compressors, compressed air dryers, Atlas Copco-designed compressor parts and other Products manufactured by Atlas Copco and affiliates shall be free of defects in design, material and workmanship for a period of fifteen (15) months from date of shipment to Purchaser, or twelve (12) months from date of initial start-up, whichever occurs first, except as set forth below or in the New Products Warranty attached hereto.

Should any failure to conform with this warranty appear prior to or after shipment of the Product to Purchaser during the specified periods under normal and proper use and provided the Product has been properly stored, installed, handled and maintained by the Purchaser, Atlas Copco shall, if given prompt notice by Purchaser, repair or replace, the non-conforming Product or authorize repair or replacement by the Purchaser at Atlas Copco’s expense.

Replaced Products become the property of Atlas Copco.

Atlas Copco warrants Products or parts thereof repaired or replaced pursuant to the above warranty under normal and proper use, storage, handling, installation, and maintenance, against defects in design, workmanship and material for a period of thirty (30) days from date of start-up of such repaired or replaced Products or parts thereof or the expiration of the original Product warranty, whichever is longer.

When the nature of the defect is such that it is appropriate in the judgment of Atlas Copco to do so, repairs will be made at the site of the Product. Repair or replacement under applicable warranty shall be made at no charge for replacement parts, F.O.B. Atlas Copco Warehouse, warranty labor, serviceman transportation and living costs, when work is performed during normal working hours (8 a.m. to 4:30 p.m. Monday through Friday, exclusive of holidays). Labor performed at other times will be billed at the overtime rate then prevailing for services of Atlas Copco personnel.

The Atlas Copco warranty does not extend to Products not manufactured by Atlas Copco or affiliates. As to such Products, Purchaser shall be entitled to proceed only upon the terms of that particular manufacturer’s warranty. The Atlas Copco warranty does not apply to defects in material provided by Purchaser or to design stipulated by Purchaser.

Used Products, Products not manufactured by Atlas Copco or affiliates and Products excluded from the above warranties are sold AS IS with no representation or warranty, and ALL WARRANTIES OF QUALITY, WRITTEN, ORAL, OR IMPLIED, other than may be expressly agreed to by Atlas Copco in writing, INCLUDING WITHOUT LIMITATION WARRANTIES OF MERCHANTABILITY OR FITNESS, ARE HEREBY DISCLAIMED.

Any services performed by Atlas Copco in connection with the sale, installation, servicing or repair of a Product are warranted to be performed in a workmanlike manner. If any nonconformity with this warranty appears within 45 days after the services are performed, the exclusive obligation of Atlas Copco shall be to re-perform the services in a conforming manner.

THE FOREGOING WARRANTIES ARE EXCLUSIVE AND IN LIEU OF ALL OTHER WARRANTIES OF QUALITY, WRITTEN, ORAL OR IMPLIED, AND ALL OTHER WARRANTIES, INCLUDING WITHOUT LIMITATION ANY WARRANTY OF MERCHANTABILITY OR FITNESS ARE HEREBY DISCLAIMED. Correction of nonconformities as provided above shall be Purchaser’s exclusive remedy and shall constitute fulfillment of all liabilities of Atlas Copco (including any liability for direct, indirect, special, incidental or consequential damage) whether in warranty, strict liability, contract, tort, negligence, or otherwise with respect to the quality of or any defect in Products or associated services delivered or performed hereunder.

LIMITATION OF LIABILITY – IN NO EVENT SHALL ATLAS COPCO BE LIABLE FOR SPECIAL, INDIRECT, INCIDENTAL OR CONSEQUENTIAL DAMAGES, however arising, whether in warranty, strict liability, contract, tort, negligence or otherwise, including but not limited to loss of profits or revenue, loss of total or partial use of the Products or facilities or services, downtime cost, or claims of the Purchaser for such or other damages whether on account of Products furnished hereunder or delays in delivery thereof or services performed upon or with respect to such Products. Atlas Copco's liability on any claim whether in warranty, strict liability, contract, tort, negligence or otherwise for any loss or damage arising out of, connected with, or resulting from this contract or the performance or breach thereof, or from the design, manufacture, sale, delivery, resale, repair, replacement, installation, technical direction of installation, inspection, servicing, operation or use of any Product covered by or furnished under this contract shall in no case (except as provided in the section entitled "Patent Indemnity") exceed the purchase price allocable to the Product or Part thereof which gives rise to the claim.

All causes of action against Atlas Copco arising out of or relating to this contract or the performance hereof shall expire unless brought within one year of time of accrual thereof.

PRICES – Prices to the Purchaser shall be the Atlas Copco list price in effect at time of order. Atlas Copco may, upon thirty (30) days prior written notice to Purchaser, change prices, or other terms of sale affecting the Products, by issuing new price schedules, bulletins or other notices.

This contract applies to new Products only. Purchases of used equipment shall be on terms to be agreed upon at time of sale to Purchaser.

This price does not include any Federal, state or local property, license, privilege, sales, service use, excise, value added, gross receipts, or other like taxes which may now or hereafter be applicable to, measured by or imposed upon or with respect to this transaction, the property, its purchase, sale, replacement, value, or use, or any services performed in connection therewith. Purchaser agrees to pay or reimburse Atlas Copco, its subcontractors or suppliers any such taxes, which Atlas Copco, its subcontractors or suppliers are required to pay or collect or which are required to be withheld by Purchaser.

The price shall also be subject to adjustment in accordance with the published Price Adjustment Clauses, which price adjustment information shall supersede the terms of this Section 8, where inconsistent herewith.

INFORMATION FURNISHED PURCHASER – Any design, manufacturing drawings or other information or materials submitted to the Purchaser and not intended for dissemination by Purchaser remain the exclusive property of Atlas Copco and may not, without its consent, be copied or communicated to a third party.

PATENT INDEMNITY – For purposes only of this Section 10, where used, the designation "Atlas Copco" shall be deemed to mean Atlas Copco North America Inc. and its subsidiaries.

Atlas Copco shall at its own expense defend any suits or proceedings brought against purchaser insofar as based on an allegation that Products furnished hereunder constitute an infringement of any claim of any patent of the United States of America, other than a claim covering a process performed by said Products or a product produced by said Product, provided that such Products are manufactured by Atlas Copco, are not supplied according to Purchaser's detailed design, are used as sold by Atlas Copco. Purchaser shall have made all payments then due hereunder, and Atlas Copco is notified promptly in writing and given authority, information and assistance for the defense of said suite or proceeding; and Atlas Copco shall pay all damages and costs awarded in any suit or proceeding so defended, provided that his indemnity shall not extend to any infringement based upon the combination of said Products or any portion thereof with other Products or things not furnished hereunder unless Atlas Copco is a contributory infringer. Atlas Copco shall not be responsible for any settlement of such suit or proceeding made without its written consent. If in any suit or proceeding defended hereunder any Product is held to constitute infringement, and its use is enjoined, Atlas Copco shall, at its option and its own expense, either replace said Products with non-infringing Products; or modify them so that they become non-infringing; or remove them and refund the purchase price and the transportation costs thereof. **THE FOREGOING STATES THE ENTIRE LIABILITY OF ATLAS COPCO AND AFFILIATES WITH RESPECT TO PATENT INFRINGEMENT.**

To the extent that said Products or any portion thereof are supplied according to Purchaser's detailed design or instructions, or modified by Purchaser, or combined by Purchaser with equipment or things not furnished hereunder, except to the extent that Atlas Copco is a contributory infringer, or are used by Purchaser to perform a process, or produce a product, and by reason of said design, instructions, modification, combination, performance or production, a suit or proceeding is brought against Atlas Copco, Purchaser agrees to indemnify Atlas Copco in the manner and to the extent Atlas Copco indemnifies Purchaser in this Section 10 insofar as the terms hereof are appropriate.

ASSIGNMENT – Any assignment of this contract or any rights hereunder, without prior written consent of Atlas Copco by a duly authorized representative thereof shall be void.

TERMINATION – Any order or contract may be cancelled by Purchaser only upon payment of reasonable charges (including an allowance for profit) based upon costs and expenses incurred, and commitments made by Atlas Copco.

PARTIAL INVALIDITY – If any provision herein or portion thereof shall for any reason be held invalid or unenforceable, such invalidity or enforceability shall not affect any other provision or portion thereof, but these conditions shall be construed as if such invalid or unenforceable provision or portion thereof had never been contained therein.

REMEDIES – The remedies expressly provided for in these conditions shall be in addition to any other remedies, which Atlas Copco may have under the Uniform Commercial Code or other applicable law.

SMARTLINK: The equipment may include a data monitoring service called SMARTLINK. The data received by Atlas Copco may be used by Atlas Copco and certain third party distributors and contractors for the purpose of increasing overall customer service. Atlas Copco will use commercially reasonable efforts to ensure that Purchaser's data is kept confidential. Purchaser acknowledges that the use of the SMARTLINK is provided "as is", that use of the service is entirely at Purchaser's risk, and that Atlas Copco may discontinue the SMARTLINK service at any time. Purchaser may request discontinuance of the SMARTLINK service at any time.

NOTE: Sale of the equipment or services described or referred to herein at the price indicated is expressly conditioned upon the terms and conditions set forth on the front and back of this page. Any confirmatory action by the Purchaser hereunder, or any acceptance of such equipment or services, shall constitute assent to said terms and conditions. Any additional or different terms or conditions set forth in the Purchaser's order or other communications are objected to by Seller and shall not be effective or binding unless assented to in writing by an authorized representative of Seller.

PAYMENT TERMS

Unless expressly agreed to in writing on a specific contract or order, our standard payment terms are:

For orders under \$100,000 the payment terms shall be **Net 30 days** from date of shipment.

For orders over \$100,000 or with lead times greater than six months the following terms shall apply:

1. Domestic Shipments

- A. 30% of order value 30 Days from date of customer's purchase order.
- B. 30% of order value after passage of 1/3 of the time from date of customer's order to the originally scheduled shipment date.
- C. 30% of order value after passage of 2/3 of the time from date of customer's order to the originally scheduled shipment date.
- D. 10% of order value, net 30 days from date of shipment.

In those cases where progress payments are required, all work on the order will cease if payment is not received in accordance with the payment schedule.

2. Export Shipments

All export shipments are subject to purchaser arranging for an irrevocable letter of credit in favor of Atlas Copco Compressors LLC, from a recognized American bank.

Should the order fall in a category that requires progress payments, the letter of credit shall be arranged to release payment in accordance with the agreed payment schedule.

3. Payment Retention

Payment retention will not be allowed. An irrevocable bank letter of credit will be furnished at Atlas Copco's expense in lieu of retention.

4. Credit Approval

All terms are subject to credit approval by Atlas Copco Compressors LLC.

CANCELLATION SCHEDULE

Definitions:

Standard Stocked Equipment - equipment as shown in the current catalog and available for shipment from the US Distribution Center.

Standard Non-Stocked Equipment - equipment as shown in the current catalog but not currently stocked at the US Distribution Center.

Engineered Equipment - equipment requiring customized features not shown in the current catalog.

Orders for Standard Stocked Equipment

* 20% of equipment price

Orders for Standard Non-Stocked Equipment

A) Prior to release for manufacturing:

* 20% of equipment price

B) After production has started:

* 40% of equipment price

C) After production has been completed:

* 60% of equipment price

Orders for Engineered Equipment

A) Prior to release for manufacturing:

* 20% of the purchase price

B) After production has started

* 40% of the base compressor price

* 40% of optional equipment of purchased materials will be charged

C) After production has completed

* 60% of the base compressor price

* 100% of optional equipment