

GENERAL TERMS AND CONDITIONS OF SALE

Atlas Copco Canada Inc.

1. Purchaser's Acknowledgment of Applicability. Atlas Copco Canada Inc. and any of its divisions or business units is referred to as the "Seller" and the customer is referred to as the "Purchaser". The present General Terms and Conditions of Sale ("General Terms") are applicable to and form the sole and integral part of every contract, quotation, purchase order, order form, proposal or invoice (the "Contract") between the Seller and the Purchaser (referred to individually as "Party" or collectively as the "Parties") for the sale of parts, equipment, machines, accessories, industrial tools, goods or services ("Products").

2. Credit. A Purchaser credit account cannot be opened by the Seller until receipt, by the Seller's Credit Department (the "Credit Department"), of a signed Credit Application. The Purchaser agrees that on-going credit approval to the satisfaction of the Seller shall be a continuous pre-condition of sale of any Products. The Purchaser will provide to the Seller, upon request, all relevant and current information allowing Seller to evaluate the financial situation or any relevant matter regarding the Purchaser's business background and debt, including but not limited to, its annual or interim financial statements, credit reports and legal suits. The Seller may, at its sole discretion, in the event of insufficient credit worthiness, freeze the Purchaser's account, stop all shipments and sale of Products to the Purchaser, or even terminate the Contract.

3. Title and Risk. It is agreed by the Purchaser and Seller that title to and ownership of the Products shall remain in the Seller until the Products are paid for in full by the Purchaser. The Purchaser assumes full risk of loss, damage to or destruction of the Products, from and after the time, at which the Product leaves the Seller's warehouse or shipping location(s) until the Products are paid in full.

4. Price. Unless stipulated otherwise by Seller, all prices are in Canadian Dollars.

5. Taxes, Duties & Levies. All applicable sales taxes, excise taxes, value-added taxes, harmonised taxes, use taxes, duties and levies are not included, unless otherwise indicated in the quotation.

6. Purchaser's Acceptance of the Products. The Purchaser must inspect the Product upon receipt and such Product will be deemed to be in compliance with the Contract and accepted by the Purchaser, unless a written notice indicating otherwise is received by the Seller within Ten (10) business days after the Purchaser's receipt of the Product.

7. Returns. The Products may not be returned to the Seller, unless approved by the Seller in writing. Seller has a right to accept or refuse any return Product at its sole discretion, without giving the notices of its decision to the Purchaser. The shipping expenses, restocking charges and fees for the return of any products may be charged to Purchaser.

8. Terms of Payment. The terms of payment for Products are net thirty (30) days from the date of the Seller's invoices, unless different terms have been agreed to in writing in a separate amendment by the Parties.

9. Cancellation. The Purchaser will not accept any cancellations of orders. Any exception shall be determined by the Seller, at its sole discretion. The Seller's determination of its acceptance of any such cancellations shall be pre-conditioned on the Purchaser sending a written notice to the Seller, requesting the cancellation and detailing with specific accuracy the reasons for any said request, as soon as

the circumstances arise giving reasons for such request of cancellation. For industrial tools sold by **Atlas Copco Tools and Assembly Systems (Canada)**, the following cancellation terms apply: 1) standard Products are subject to 30% restocking fee; 2) non-returnable items or replacement parts are subject to full purchase price; and 3) non-standard O.E.M. components, if returnable to the O.E.M., are subject to 30% return fee. Other cancellation charges may apply and charged to the Purchaser by the Seller.

10. Acts of Default and Termination. The following are Act(s) of Default caused by the Purchaser: 1) The Purchaser becomes insolvent, makes an assignment in bankruptcy, a receiving order is granted against it, proposes a compromise or an arrangement for the benefit of its creditors, takes advantage of any recourse or procedures under any bankruptcy or insolvency law within any jurisdiction; 2) the Seller is convinced, in its own assessment, that acts have or may be posed by the Purchaser that are intended to defraud the Purchaser's creditors or jeopardize any security interest, hypothec and/or reservation of ownership that the Seller may hold without the prior written consent of the Seller; 3) there is a change in the corporate control of the Purchaser; 4) there has been a change in the corporate name or control of the Purchaser, due to merger or acquisition, or divestiture of any part of the business of the Purchaser; 5) the Purchaser has defaulted to pay its invoices, pursuant to the terms of payment; 6) the Purchaser has breached any provision of the General Terms. If the Purchaser fails to satisfy any demand for rectification of default within five (5) days, the Seller may terminate the General Terms upon giving five (5) days written notice of termination.

11. Warranty. Atlas Copco Tools and Assembly Systems warrants to the customer that the products manufactured by Atlas Copco Tools and Assembly Systems and its affiliates shall be free of defects in design, materials, and workmanship for the following periods of time:

1. **Atlas Copco Industrial Tools:** 12 months from date of shipment to customer
2. **Atlas Copco PRO Series Tools:** 3 months from date of shipment
3. **Parts, Accessories and Service Repairs:** Parts, Accessories and Service Repairs

Should any failure to conform with this warranty appear prior to or after shipment of the product to customer during the specified periods under normal and proper use and provided the product has been properly stored, installed, handled and maintained by the customer, Atlas Copco Tools and Assembly Systems shall, if given prompt notice by customer, repair or replace the nonconforming product or authorize repair or replacement by the distributor. Note: This does not include standard wear items such as vanes, o-rings, etc. Replaced products become the property of Atlas Copco Tools and Assembly Systems. Atlas Copco Tools and Assembly Systems' warranty does not extend to products not manufactured by Atlas Copco Tool and Assembly Systems or its affiliates. As to such products, customer shall be entitled to proceed only upon the terms of that particular manufacturer's warranty and does not apply to defects in material provided by customer or design stipulated by customer. The foregoing warranty is in lieu of all other warranties, expressed or implied, arising in law or otherwise.

12. Delivery and Lead-Times. All delivery and production lead-times for Products quoted by the Seller are estimations and are non-binding on the Seller in the event of missed dates. Deliveries shall

be F.O.B. latest Incoterms the Seller's warehouse or its other facilities, as determined in the Seller's sole discretion. For Products shipped from the Seller's manufacturing facilities outside of Canada, the deliveries are "ExWorks" latest Incoterms the Seller's particular facilities.

13. Delays, Non-Performance, Force Majeure and Liability Limitation. The Seller shall, under no circumstances, be held liable or responsible for any delays in the delivery and manufacturing lead times of the Product, nor for any non-performance of any Contract terms or obligations due to said delivery and manufacturing lead times. In no event shall the Seller be held liable or responsible to the Purchaser or any other party for any delay, breach or failure arising, in whole or in part, by reason of Force Majeure including, but not limited to, all government action, declared or undeclared war, floods, fires, earthquakes, unusually severe weather conditions, epidemics, pandemics, civil unrest, riots or other civil disturbances, road conditions and construction, statutes, legislation, ordinances, court orders or regulations (including changes or repeal of these statutes, legislation, ordinances, court orders or regulations), strikes or labour disputes, inability to secure raw materials, supplies or labour, or any other event, cause, contingency or circumstance beyond the Seller's control, which could prevent, hinder or delay the manufacture or delivery of the Product. **Liability Limitation:** The Seller shall not be liable to the Purchaser or any other party for any loss, cost, expense, injury or damage to persons or property; any loss of profits or loss of use of the equipment; any loss of production; any direct, indirect, exemplary or consequential damage, arising directly or indirectly from the breach or performance of the Contract by Seller. The Seller's liability to the Purchaser does not exceed the purchase price of the Products.

14. General Indemnity & Insurance. The Purchaser must indemnify, hold harmless and defend the Seller, its affiliates, directors, officers, agents, principals, employees, parent companies and their respective directors, officers, agents, principals, employees and their shareholders (collectively referred to as the "Indemnitees"), upon the Indemnitees' written request, for any and all claims, demands, actions, causes of action, liabilities, losses, damages, judgments, settlements and compromises for bodily injury or death, property damage or economic loss, as well as any and all judicial and extra-judicial costs and expenses related thereto, including reasonable lawyers' fees, which may be incurred by or estimated against the Indemnitees to the extent caused, by any negligent act, omission, or wilful misconduct of the Purchaser or any of its directors, officers, employees, representatives, agents or subcontractors. **Insurance:** Each Party shall only maintain its standard commercial general liability insurance coverage in accordance with their insurers' blanket insurance policies and any insurance coverage required under applicable law.

15. Successors, Heirs and Assignment. The General Terms bind and inure to the benefit of the Purchaser and the Seller, as well as their respective successors and the Purchaser's permitted assigns according to the present section. The Purchaser may not assign any of its rights or obligations hereunder without the Seller's prior written consent, which shall not be unreasonably withheld. The Seller may assign all or any part of the General Terms at any time without consent of the Purchaser.

16. Waiver. Any failure of the Seller to enforce any provision or to exercise any of its rights pursuant to the General Terms or Contract shall not constitute a waiver, estoppel or relinquishment of any terms, conditions or rights pursuant to the General Terms and Contract and will not limit the Seller's right to enforce strict compliance of its rights at a later date.

17. Governing Laws and Jurisdiction. For the perfection of any security interest over the Products sold to the Purchaser by Seller, the applicable law governing security interest of the province where the Products are located shall apply. Otherwise, the interpretation, validity and performance of the General Terms and Contract must be governed by and interpreted in accordance with the laws of the Province of Ontario, without taking into account conflict of laws rules. For all litigation arising out of any disputes between the Purchaser and the Seller, the Purchaser and the Seller consent to the exclusive jurisdiction of the Courts of the Province of Ontario, namely the Court offices in Toronto, and agree that any and all such litigation will be determined exclusively by such Courts.

18. Intellectual Property Rights. Neither Party shall have title or property rights in the intellectual property of the other Party. All documentation and drawings, specifications and other technical information pertaining (collectively known as "**Technical Information**") to the Product, as well as all Technical Information reasonably necessary for the correct installation, operation and maintenance and the like of the Product, shall be considered as part of the Product and the physical media on which the same are presented shall be granted to Purchaser by Seller, as a limited license in accordance with the present provision, upon full payment, provided however, that the copyright, patent, trademark, trade name, trade secret and other intellectual property contained therein shall be and remain the sole property of the Seller. The Seller grants to the Purchaser an irrevocable, royalty-free, non-exclusive, non-transferable, non-assignable, non-sublicensable, license to use the said intellectual property solely for the purpose of installing, operating, using and maintaining the Product in the manner described in any manuals or information supplied by the Seller to the Purchaser. **For service work, Seller does not grant any intellectual property rights or license to the Purchaser.**

19. Non Exclusive Rights. All rights in the General Terms shall be in addition to, and not in lieu of, the Seller's other rights and remedies pursuant to applicable law.

20. Trade Sanctions, Anti-Corruption and Ethical Standards. Each Party shall strictly abide by all applicable Canadian, US, UN and international trade sanctions and laws. The Parties agree to abide by all applicable anti-corruption legislation, especially the *Corruption of Foreign Public Officials Act* (Canada) and Atlas Copco's Business Code of Practices and ethical standards, which can be found at the following link: (<http://www.atlascopcogroup.com/sustainability/>).

21. Construction. The headings found in the General Terms are provided for convenience only and may not be considered in its interpretation.

22. Severability. If any provision in the General Terms should be held invalid, unenforceable or against public policy by a Canadian court of competent jurisdiction, the remaining provisions shall remain valid with full force and effect.

23. Entire Agreement. The General Terms, shall constitute and be deemed the entire agreement/between the Seller and the Purchaser, and cannot be modified or amended in any way, except by a subsequent document, duly executed by a signing officer or employee of the Seller, who is authorised to bind the company. All other documents, negotiations, representations and agreements, either oral or in writing, made by any other persons, are of no effect and are expressly superseded. **Clauses 3, 4, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23 and 24 survive termination of the General Terms.**

24. Language. The Parties hereby acknowledge that they have expressly requested and are satisfied that these presents, and the documents related thereto, be drawn in English. Les parties aux présentes reconnaissent qu'ils ont expressément exigé que les présentes, ainsi que les documents qui s'y rattachent, soient rédigés en anglais, et s'en déclarent satisfaits. Ce document est aussi disponible en français.

