

**ATLAS COPCO RENTAL NEDERLAND**

*\* Applicable solely to the rental activities of Atlas Copco Rental Nederland, a company of Atlas Copco Internationaal BV*

**ARTICLE 1 – DEFINITIONS**

In these General Rental Conditions the following definitions have the meaning given to them below:

**Rental Equipment:** the good or goods that are identified as Rental Equipment in the Agreement.

**Borrower:** the entity or partnership that has concluded a rental agreement with Lender in respect of goods that are the property of Lender or that negotiate with Lender about such agreement.

**Agreement:** the rental agreement as referred to in Article 2.2, to which these General Rental Conditions apply.

**Parties:** Lender and Borrower.

**Lender:** Atlas Copco Rental Nederland, Merwedeweg 7 - 3336 LG Zwijndrecht, Netherlands  
VAT: NL.001384.983.B01

Having its registered office in Rotterdam (Chamber of Commerce no. 23032900) with places of business in Zwijndrecht and Leende, and all enterprises that work together and are affiliated with these companies.

**ARTICLE 2 – OFFERS, AGREEMENTS**

2.1 If an offer or suchlike of Lender is not accepted in writing by Borrower and confirmed by Lender, or if no written rental agreement has been signed by both Parties, within 14 days or within the period specified in the offer, the offer expires.

2.2 A rental agreement is formed between the Parties when Borrower has timely accepted in writing an offer or suchlike or when the Parties have signed a written rental agreement, or when Lender makes the Rental Equipment available to Borrower, in accordance with Article 3 or 4.

**ARTICLE 3 – COLLECTING THE RENTAL EQUIPMENT BY BORROWER**

3.1 Unless expressly agreed otherwise in writing Borrower will collect the Rental Equipment from the warehouse of Lender's place of business where Borrower ordered it, or from the warehouse of another place of business to be specified by Lender, at the (absolute) discretion of Lender.

3.2 Borrower will be entitled to inspect and/or examine the Rental Equipment or cause it to be inspected or examined prior to or at or during the actual delivery. If Borrower fails to do so or takes delivery of the Rental Equipment without comments or remarks after having inspected or examined it, the Rental Equipment is considered to have been accepted in accordance with the Agreement, i.e. in a proper, sound and undamaged state. Complaints submitted after the equipment is put into use are not accepted.

3.3 As soon as the Rental Equipment has left Lender's premises or as soon as the Rental Equipment is set apart for the benefit of Borrower and Borrower is notified that the Rental Equipment is at its disposal, the Rental Equipment and the use thereof will be for Borrower's account and risk. The transport is at Borrower's risk.

**ARTICLE 4 – DELIVERY OF THE RENTAL EQUIPMENT BY LENDER**

4.1 In express departure from what is provided in Article 3 above, the parties may agree in writing that Lender will deliver the Rental Equipment, or have it delivered, to a location to be specified by Borrower.

4.2 Borrower will be entitled to inspect and/or examine the Rental Equipment or cause it to be inspected or examined prior to the transport at Lender's premises. If Borrower fails to do so or takes delivery of the Rental Equipment without comments or remarks after having inspected or examined it, the Rental Equipment is considered to have been delivered in accordance with the Agreement, i.e. in a proper, sound and undamaged state. Complaints submitted after the goods are put into use are not accepted. Borrower is expressly not entitled to inspect and/or examine the Rental Equipment or cause them to be inspected or examined after the transport, at or during the actual delivery.

4.3 In the instance referred to in Article 4.1, Borrower shall ensure that an authorised/competent person is present at the agreed delivery address on the agreed delivery date to take delivery of the Rental Equipment. This person must be able to identify himself.

4.4 If no one is present on the agreed delivery date on behalf of Borrower, Lender may take the Rental Equipment back or have it returned to it. Any costs made in this respect, including loss of rent and transport costs, shall be for Borrower's account.

4.5 When delivering the Rental Equipment at a specified address, Lender shall use its best efforts to deliver the Rental Equipment within the agreed delivery period. Specified delivery times shall however not be considered final.

4.6 If the Rental Equipment is delivered by Lender, as referred to in this Article, the transport will be for Lender's risk.

4.7 The Rental Equipment and the use thereof are for Borrower's account and risk as from the moment of delivery.

**ARTICLE 5 – INSURANCE**

5.1 Borrower shall insure the Rental Equipment with a reputable insurance company against all insurable risks and keep it insured until the Rental Equipment is returned to Lender ("Rent without insurance"). Borrower shall furthermore provide Lender with a copy of the policy at the latter's first request and shall submit to Lender proof of premium payment at the latter's first request.

5.2 Parties may expressly deviate in writing, in the Agreement, from the provisions of Article 5.1. In that event Lender will insure the Rental Equipment with a reputable insurance company and keep it insured against all insurable risks until Borrower returns the Rental Equipment ("Rent with insurance").

5.3 Borrower shall immediately notify Lender of the disposal, theft or misappropriation of the Rental Equipment and report the matter to the police, and shall provide Lender with a copy of the police report. The agreed rent continues to be due until the date on which Borrower's or Lender's insurance company, as the case may be, pays out.

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5.4 If Borrower avails itself of the insurance formula offered by Atlas Copco Nederland BV –Specialty Rental Division, an ‘excess’ equal to 10% of the higher of the replacement value of the equipment, or of €1,850 applies, unless agreed otherwise in the rental agreement, in the event the equipment is damaged or completely destroyed during the rental period as a result of Borrower’s actions.

- f. daily inspection and cleaning of condensers, in connection with external circumstances;
- g. daily inspection of ventilator belts and tightening them if necessary;
- h. inspecting and if necessary putting air in pneumatic tyres;
- i. inspecting whether compressor water separator drain taps are open or shut;
- j. changing lubricant at least once every 400 hours;

**ARTICLE 6 – PROPER USE OF THE RENTAL EQUIPMENT BY BORROWER; MAINTENANCE**

- 6.1 Borrower shall take care of the Rental Equipment and keep the Rental Equipment secure as a good borrower and shall use the Rental Equipment in accordance with the instructions of use. Borrower shall only use the Rental Equipment for the purpose for which it is intended.
- 6.2 Borrower may not use the Rental Equipment at sea, in vessels and/or outside the country where the Rental Equipment was collected or delivered without Lender’s prior written permission.
- 6.3 The Rental Equipment is and shall at all time remain the property of Lender. Borrower is consequently not allowed to pledge or dispose of the Rental Equipment or encumber it in any other way.
- 6.4 Borrower may not hire out the Rental Equipment, or let it be used by, or place it at the disposal of third parties without Lender’s written permission. If Lender gives its written permission, Borrower shall notify Lender in writing of the name and address of the relevant third party and of the location of the Rental Equipment.
- 6.5 Borrower may not cover Lender’s logo in any way. Nor may Borrower affix its own logo/ name/pictorial mark to the Rental Equipment. If Borrower does cover Lender’s logo and/or does affix its own logo/name/pictorial mark to the Rental Equipment, Lender may demand that the Rental Equipment be immediately returned, whereby Borrower shall owe the full rent due for the Rental Equipment by way of a fine. In addition, Borrower shall owe the full costs of restoring Lender’s logo on the Rental Equipment and/or of removing the logo/name/pictorial mark of Borrower or third parties, if any.
- 6.6 Borrower may not alter the nature, intended use, composition or set-up of the Rental Equipment. Nor may Borrower disassemble the Rental Equipment or parts of it, or add or remove anything to or from the Rental Equipment or alter it without Lender’s prior written permission. Anything that is added to or altered in the Rental Equipment by or on behalf of Borrower after having obtained such permission becomes the property of Lender.
- 6.7 Borrower shall use the Rental Equipment with due observance of Lender’s directions and/or instructions and/or instructions of use.
- 6.8 Borrower is obliged to ensure the daily maintenance of the Rental Equipment, including but not limited to:
  - a. filling up with fuel;
  - b. daily inspection and if necessary filling up of good-quality lubricants, in accordance with the specifications.
  - c. daily inspection and if necessary filling up with compressor oil;
  - d. daily inspection and if necessary filling up with coolant;
  - e. daily inspection and if necessary filling up the battery with distilled water;

6.9 Lender may at all time inspect or cause to inspect whether maintenance is carried out, as well as the state of the Rental Equipment. To this end it may gain access to Borrower’s premises.

**ARTICLE 7 – MALFUNCTIONS**

- 7.1 Borrower shall immediately report any malfunctions in writing to Lender, stating equipment number, a description of the malfunction and the location of the Rental Equipment.
- 7.2 If a malfunction occurs, Borrower shall cease using the Rental Equipment, unless Lender has given written permission to continue using it.
- 7.3 Borrower shall ensure that the Rental Equipment is accessible and easily reached. If the Rental Equipment is located in the country where it was collected or delivered, the defective equipment will, where necessary, be repaired by or on behalf of Lender on location or replaced by other equipment. If and to the extent that the Rental Equipment is at sea, in vessels or located outside the country where the Rental Equipment was collected or delivered, the Rental Equipment shall be repaired for Borrower’s account by Lender or by a third party to be designated by Lender.
- 7.4 In the event of (i) a malfunction lasting more than 24 hours after Borrower reported the malfunction to Lender in accordance with Article 7.1, and (ii) it is entirely impossible for Borrower to use the Rental Equipment at all as a result of the malfunction, Borrower shall not owe any rent in respect of the period during which it is unable to use the Rental Equipment. Whether or not the Rental Equipment can be used is at the discretion of Lender.
- 7.5 If a malfunction is caused by damage to and/or improper and/or inexpert use of the Rental Equipment or by Borrower’s failure to comply with the obligations mentioned in Article 6 and this Article 7, the provisions of Article 7.4 do not apply.

**ARTICLE 8 – RETURNING THE RENTAL EQUIPMENT AT THE END OF THE RENTAL AGREEMENT**

- 8.1 Borrower shall return the Rental Equipment on the last day of the Agreement to the place of business where the Rental Equipment was rented and/or collected, during the office hours in force at Lender’s. The obligation to pay rent ends once a Lender employee has inspected the Rental Equipment and signed a return slip.
- 8.2 Borrower shall return the Rental Equipment to Lender in a clean and proper state.
- 8.3 If Borrower fails to return the Rental Equipment in time or in accordance with the provisions of Article 8.2, the rental agreement shall remain in force until the day on which Lender has actually received the Rental Equipment, or until the moment when the Rental Equipment is in accordance with the provisions of Article 8.2, without prejudice to Lender’s right to compensation and/or having the Rental Equipment fetched back.

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8.4 Until the moment when Lender has received the Rental Equipment in accordance with this Article 8, the Rental Equipment and the use thereof shall be for Borrower's account and risk. The transport shall be for Borrower's risk.

misappropriation, theft, disposal or complete destruction.

11.2 If the Rental Equipment is lost, misappropriated, stolen, disposed of or completely destroyed, Borrower shall owe Lender the current market value of the Rental Equipment, based on Lender's current price list, without prejudice to Lender's right to claim performance, damages (loss of rent), or suspension.

**ARTICLE 9 – LENDER COLLECTS THE RENTAL EQUIPMENT AT BORROWER'S AT THE END OF THE RENTAL AGREEMENT**

11.3 If the Rental Equipment is lost, misappropriated, stolen, disposed of or completely destroyed, Borrower shall owe the rent instalments due under the Agreement as if the Rental Equipment was not lost, misappropriated, stolen, disposed of or completely destroyed.

9.1 If the Parties have agreed that Lender will collect the Rental Equipment or have it collected, Borrower shall notify Lender in writing at least 24 hours in advance, including at least one working day, that the Rental Equipment is ready for collection at Borrower's. The obligation to pay rent ends in this event by the written notice.

11.4 Borrower shall be liable for any loss or damage arising from the failure to comply, or to comply fully, with the provisions of the Agreement and these General Rental Conditions, including but not limited to failure to comply, or to comply fully with:  
a. Lender's directions and/or instructions and/or instructions of use, etc.,  
b. the maintenance obligations, etc.;  
c. the obligation to report malfunctions, etc.;  
d. the obligation to return or deliver the Rental Equipment to Lender timely and in clean and proper condition, etc.

9.2 In the event referred to in Article 9.1, Borrower shall ensure that the Rental Equipment is ready for transport at the address of which it has notified Lender in writing from 08:00 onwards, at a location that is accessible for through-traffic from a public road. The foregoing does not imply that Lender shall collect the Rental Equipment at that hour.

9.3 Borrower shall ensure that as from the time specified in Article 9.2 a competent person is present on behalf of Borrower to hand over the Rental Equipment to Lender or the carrier engaged by Lender. This person must be able to identify himself.

11.5 If the Rental Equipment is returned to Lender in a poor or damaged state in accordance with Articles 8 or 9 of these General Rental Conditions, Borrower shall be liable for any and all repair and cleaning costs incurred by Lender, without prejudice to Lender's right to claim loss of rent. The following applies in this respect:

9.4 Within six working hours after having received the delivery report from Lender as referred to in the previous paragraph, Borrower may, for its own account, inspect or examine, or cause to inspect or examine, the Rental Equipment at the premises of Lender. If Borrower fails to do so or does not make any comments or remarks further to the inspection or examination, the delivery report will be acknowledged and Lender shall owe any costs mentioned in the report to Lender. Any inspection carried out by Borrower prior to the transport shall in no event have the status of delivery.

a. all costs for cleaning the Rental Equipment, or for replacing or repairing damaged, missing, or broken parts shall be for Borrower's account;  
b. if the damage or repair and cleaning costs are estimated to be less than €2,500, the costs will be assessed by Lender;  
c. if the damage or repair and cleaning costs are estimated to be more than €2,500, the costs will be assessed, at Borrower's expense, by a loss assessment firm designated by Lender.  
d. the assessment costs incurred by Lender in order to assess the damage to the Rental Equipment shall be for Borrower's account.

9.5 Until such moment as the Rental Equipment is collected by or on behalf of Lender in accordance with the provisions of this Article 9, the Rental Equipment and the use thereof shall be for Borrower's account and risk. If the Rental Equipment is collected by Lender, as contemplated in this Article 9, the transport shall be for Lender's risk.

11.6 Lender excludes any and all liability for possible indirect damage that might arise as a result of a defect to the Rental Equipment, or as a result of any failure by Lender to comply with any obligation under the Agreement and/or these General Rental Conditions.

**ARTICLE 10 – WORKING IN TWO OR THREE SHIFTS**

10.1 Unless otherwise agreed in the rental agreement, Lender rents the Rental Equipment on the basis of a normal 8-hour working day and a 40-hour working week. Extra days are billed proportionally and pro rata. Extra operating hours will be charged on the basis of Lender's applicable rates, with the rate for continuous operation as maximum. If Borrower wishes to use the Rental Equipment in two shifts, or 16 hours per day, or in three shifts, or 24 hours per day, it shall notify Lender correspondingly when signing the Agreement, or as soon as such use is contemplated.

11.7 Notwithstanding the provisions of the preceding paragraph, Lender's liability shall be limited to the maximum amount paid out under Lender's liability insurance in respect of the event concerned.

11.8 Borrower agrees to fully indemnify Lender against any third-party claims for damages related to the use of the Rental Equipment.

**ARTICLE 11 – LIABILITY**

11.1 Until the moment when the Rental Equipment is received by Lender in accordance with Article 8 or 9 of these General Rental Conditions, Borrower shall be liable for all damage caused to the Rental Equipment, including damage in the form of loss,

**ARTICLE 12 – FORCE MAJEURE**

12.1 In the event of force majeure, Lender's delivery and other obligations will be suspended. If the period during which Lender is unable to fulfil its obligations as a result of force majeure lasts more than three months, Parties may terminate the Agreement without court intervention and without any obligation to pay compensation.

12.2 For the purpose of this Article, "force majeure" means in any event any inability to perform due to

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- circumstances that were unforeseeable at the time of concluding the Agreement and that are beyond Lender's control. These circumstances shall in any event include failure to comply, or to timely comply, on the part of Lender's suppliers, fire, severe flooding, extreme weather conditions, strikes, traffic jams, road blocks, and work interruptions.
- 12.3 If, when a force majeure event occurs, Lender has already partially fulfilled its obligations or is only able to fulfil part of its obligations, Lender may bill the part already fulfilled or that it is able to fulfil separately and the other party shall be obliged to pay the invoice as if it concerned a separate agreement.
- 14.2 Borrower agrees to immediately notify Lender of any attachments (both prejudgment and executorial) of its moveable and immoveable property or of the Rental Equipment, or part thereof, or of any application for a (provisional) suspension of payment, or of a winding-up petition, or of the applicability of the statutory debt management scheme, and to allow the attaching bailiff, the receiver or administrator inspection of the rental agreement immediately.
- 14.3 Notwithstanding Article 14.2, Lender and Borrower may consider the Agreement terminated, either wholly or in part, without court intervention and without prejudice to any additional right to compensation, if the other party, after having been held properly in default, fails to fulfil its obligations under the Agreement.

**ARTICLE 13 – RENT PAYMENT**

- 13.1 Unless otherwise agreed in the Rental Agreement, payment is due within 30 days after the date of the invoice, without any setoff. Lender may charge a late payment surcharge and/or demand prepayment or other guarantees. The payment term is a final term.
- 13.2 If Borrower fails to pay within the term specified in Article 13.1, it is in default by operation of law and shall owe Lender default interest equal to 1.5% of the invoiced amount for each month that Borrower defaults on its payments. When computing the interest part of a month is regarded as a full month. Any payment effected by Borrower will first be used to pay the outstanding interest and costs and next the oldest outstanding invoices. If an agreed payment term is exceeded, all agreed discounts lapse and Lender will be entitled to charge the full rent.
- 13.3 Notwithstanding Article 13.2, Borrower shall owe Lender all costs incurred by Lender in order to collect the amounts owed to Lender and to secure its rights, including both the legal and the extrajudicial collection costs, without prejudice to Lender's right to additionally demand compensation of all damage, costs and interests arising for Lender from the failure to comply, or to comply fully or in time, with the Agreement or from the termination of the Agreement.
- 13.4 The legal and extrajudicial collection costs shall also include the collection, administrative overhead and settlement costs of local counsels, bailiffs and assessors. The extrajudicial costs are deemed to have been set by the Parties at 15% of the total amount due, with a minimum of €500 in all instances.
- 14.4 In the instances mentioned in Articles 14.1 and 14.2, Lender may at all time repossess the Rental Equipment from Borrower, without any notice of default or prior announcement. Borrower agrees now for then to fully cooperate with Lender if so required by the latter.
- 14.5 In the instances mentioned in Articles 14.1 and 14.2, Lender shall in no event be liable for any damage caused to Borrower or to third parties as a result of repossessing the Rental Equipment or the termination of the Agreement. Any transport, travelling, subsistence and accommodation costs, etc. incurred by Lender in the exercise of the right to repossess shall be for Borrower's account.

**ARTICLE 15 – SECURITY DEPOSIT**

- 15.1 The amount stipulated in the rental agreement as security deposit shall be paid to Lender at the time when the Rental Equipment is collected at the latest. It shall be agreed that this security deposit serves as security for the fulfilment of any obligation Borrower may have under the agreement.

**ARTICLE 16 – MISCELLANEOUS PROVISIONS**

- 16.1 Lender may engage the services of third parties in the performance of the Agreement concluded with Borrower.
- 16.2 If any provision of the Agreement and/or these General Rental Conditions is void or voidable, the other provisions of the Agreement and/or these General Rental Conditions shall remain in full effect. Instead of the void or voidable provisions the Parties shall agree provisions that come as close to what Parties would have agreed if they had been aware of the nullity or voidability as the law allows.
- 16.3 All agreements to which these Conditions have been declared applicable are governed by and will be interpreted in accordance with Dutch law.

**ARTICLE 14 – PREMATURE TERMINATION OF THE AGREEMENT**

- 14.1 If Borrower fails to fulfil one or more of its obligations, or fails to do so in time or properly, or if Borrower files a winding-up petition or applies for (provisional) suspension of payment, or if Borrower is declared insolvent, or if the Dutch Debt Management (Natural Persons) Act (*Wet Schuldsanering Natuurlijke Personen*) is declared applicable to it, or if Borrower transfers, winds up, or ceases its enterprise or part of it, and/or if the assets of Borrower or part of them are attached, Borrower shall be in default and Lender shall be entitled to consider the Agreement terminated, either wholly or in part, without any notice of default or court intervention, and without prejudice to its other rights to claim performance, damages and suspension.

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