

ATLAS COPCO RENTAL LLC
RENTAL TERMS AND CONDITIONS

1. General. As used herein, "Atlas Copco" means Atlas Copco Rental LLC. "Customer" means the entity renting any compressor and/or other equipment (collectively "Equipment") from Atlas Copco. This Rental Terms and Conditions document is hereinafter referred to as these "Rental Terms". **ATLAS COPCO'S RENTAL OF EQUIPMENT TO CUSTOMER IS EXPRESSLY CONDITIONED ON CUSTOMER'S ASSENT TO THESE RENTAL TERMS. ANY ACCEPTANCE OF ATLAS COPCO'S OFFER IS EXPRESSLY LIMITED TO ACCEPTANCE OF THESE RENTAL TERMS. ANY CUSTOMER TERMS OR CONDITIONS WHICH ADD TO, VARY FROM, OR CONFLICT WITH THESE RENTAL TERMS ARE HEREBY EXPRESSLY OBJECTED TO.** Any order to rent Equipment from Atlas Copco shall constitute Customer's assent to these Rental Terms. In the event a separate written agreement covering rental terms and conditions has been negotiated and mutually signed by authorized representatives of Atlas Copco and Customer and such agreement is applicable to the particular rental, it shall take precedence (to the extent of inconsistencies) and these Rental Terms will be supplemental to such agreement. Quotations may be withdrawn by Atlas Copco at any time before receipt of Customer's acceptance.

2. Rental Period. Unless agreed otherwise in writing, the rental period will begin on the date of pick up by Customer or shipment of the Equipment from Atlas Copco's facility and, unless sooner terminated as provided below, will continue in full force and effect for the minimum rental commitment period identified by Atlas Copco in its written quotation or until the Equipment is returned at Atlas Copco's facility during Atlas Copco's normal business hours, whichever occurs later (the "Rental Period"). A daily rental is twenty-four (24) hours. A weekly rental is seven (7) consecutive days. A monthly rental is twenty-eight (28) consecutive days.

3. Delivery and Return of Equipment. Unless otherwise agreed in writing, Customer will: (a) be responsible for all freight-related costs in both directions, (b) unload the Equipment from the carrier and install the Equipment, (c) un-install and load the Equipment onto the carrier, and (d) pay any and all applicable governmental fees and other ancillary charges related to transportation/delivery. Unless otherwise agreed in writing, Atlas Copco will select the carrier of the Equipment in both directions. Customer must contact Atlas Copco to request pick-up/return of the Equipment. In the event Customer returns the Equipment with less fuel than when the Equipment was delivered to Customer, Atlas Copco may charge a refueling fee. In the event the Equipment is not returned in a reasonably clean condition, Atlas Copco may charge a cleaning fee.

4. Force Majeure. If Atlas Copco is not able to perform or is delayed due to any cause beyond its reasonable control (including but not limited to acts of God, strike or other concerted action of workmen, act or omission of any governmental authority, act of war or terrorism, act of the public enemy, embargo, delays of carriers, or delays by Atlas Copco's usual suppliers), the time of performance will be extended by the amount of time reasonably sufficient to make up for the delay.

5. Limitation of Liability. **UNDER NO CIRCUMSTANCES SHALL ATLAS COPCO BE LIABLE FOR ANY CONSEQUENTIAL, INDIRECT, INCIDENTAL, OR SPECIAL DAMAGES (INCLUDING, BUT NOT LIMITED TO, LOSS OF PROFITS OR REVENUE, LOSS OF USE OF EQUIPMENT OR SERVICES, DOWNTIME COSTS, AND DELAY COSTS), EVEN IF ADVISED OF THE POSSIBILITY OF SUCH DAMAGES OR IF SUCH DAMAGES ARE FORESEEABLE. ATLAS COPCO'S LIABILITY TO CUSTOMER UNDER ANY THEORY OF RECOVERY (ARISING FROM OR RELATED TO THE RENTAL, THE EQUIPMENT, THE SERVICE, AND/OR THE CONTRACT, INCLUDING, BUT NOT LIMITED TO, BREACH THEREOF) SHALL BE LIMITED TO THE AMOUNT OF MONEY RECEIVED BY ATLAS COPCO FROM CUSTOMER FOR THE RENTAL OF THE PARTICULAR EQUIPMENT/SERVICE GIVING RISE TO THE CLAIM.** For purposes of this Section, the term "Atlas Copco" means Atlas Copco Rental LLC, its affiliates, suppliers, and subcontractors, and their respective employees/agents.

6. Warranty. Customer acknowledges that rented Equipment is in a **USED CONDITION**. Atlas Copco warrants that Equipment is delivered in a mechanically operable condition, and any services performed by Atlas Copco will be performed in a workmanlike manner. If Equipment or services do not meet the above-stated warranties, Customer will promptly during the rental period notify Atlas Copco in writing and Atlas Copco will, at Atlas Copco's option, replace or repair the defective Equipment and re-perform the defective portion of service. At Atlas Copco's sole discretion, Atlas Copco may provide a pro-rata refund in lieu of such repair or replacement or re-performance of service.

THE ABOVE-STATED WARRANTIES ARE EXCLUSIVE AND IN LIEU OF ALL OTHER WARRANTIES (WRITTEN, ORAL, IMPLIED, OR OTHERWISE). ALL OTHER WARRANTIES, INCLUDING BUT NOT LIMITED TO ANY IMPLIED WARRANTY OF MERCHANTABILITY AND ANY IMPLIED WARRANTY OF FITNESS FOR A PARTICULAR PURPOSE ARE HEREBY EXPRESSLY DISCLAIMED. Correction of nonconformities as provided above set forth the exclusive remedies with respect to the quality of or any defect in any Equipment or service.

7. Customer Insurance Obligations- Commercial General Liability insurance, etc. Customer shall at all times during the rental period, at its expense, have and maintain: (a) Commercial General Liability insurance in an amount not less than \$2,000,000 each occurrence for bodily injury and property damage property; (b) Automobile Liability insurance in an amount of \$2,000,000 combined single limit each occurrence; (c) Worker's Compensation insurance in accordance with applicable statutory law; (d) Employer's Liability insurance in an amount not less than \$1,000,000 for bodily injury each accident or disease.

For each insurance policy, the insurer shall be a reputable insurance company and the coverage shall be primary, and non-contributory. In the event of a loss, Customer shall cooperate with Atlas Copco and Customer's insurer in the investigation, prosecution and defense of any claim or suit and shall do nothing to impair or invalidate the applicable coverage. Customer's insurance obligations do not limit its ultimate liability under these Rental Terms.

8. Customer Insurance Obligations - Insurance for the Equipment. In addition to the insurance coverages stated above in [Section 7](#), Customer shall at its expense insure the Equipment throughout the Rental Period with a reputable insurance company in an amount not less than the retail replacement value of the Equipment, which shall be determined by Atlas Copco. At the time of rental, Customer must provide to Atlas Copco a certificate of insurance evidencing insurance coverage for the Equipment and naming Atlas Copco Rental LLC as a loss payee and/or additional insured on said certificate. The coverage of the insurance shall include losses caused by theft, vandalism, fire, weather, Acts of God, acts or omissions of Customer, its employees or agents or third parties, and other risk of loss customarily insured against in a commercial property loss policy. Coverage shall be primary and non-contributory. In the event of a loss, Customer shall cooperate with Atlas Copco and Customer's insurer in the investigation, prosecution and defense of any claim or suit and shall do nothing to impair or invalidate the applicable coverage. Customer's insurance obligations do not limit its ultimate liability under these Rental Terms. If Customer fails to provide the above-stated certificate of insurance for the Equipment at the time of rental, Customer will be charged for the Reduced Risk of Equipment Loss Option ("RRELO") in accordance with [Section 9](#) below.

9. REDUCED RISK OF EQUIPMENT LOSS OPTION (“RRELO”). IF CUSTOMER FAILS TO PROVIDE THE ABOVE-STATED CERTIFICATE OF INSURANCE FOR THE EQUIPMENT AT THE TIME OF RENTAL, CUSTOMER WILL BE DEEMED TO HAVE ELECTED THE RRELO AND AGREES TO PAY THE ADDITIONAL CHARGES FOR THE RRELO IN ACCORDANCE WITH THIS SECTION. THE RRELO CHARGES WILL BE CHARGED ON THE RENTAL INVOICES. THE TOTAL CHARGES FOR THE RRELO WILL BE EQUAL TO FOURTEEN PERCENT (14%) OF THE TOTAL RENTAL CHARGES. CUSTOMER IS FULLY RESPONSIBLE FOR THE LOSS OF OR DAMAGE TO THE EQUIPMENT SUBJECT TO THE TERMS AND CONDITIONS OF THE RRELO PLAN. For further information on the RRELO plan, please visit <https://www.atlascopco.com/en-us/Rental>

10. Cancellation. Atlas Copco shall reserve the right to charge Customer for costs incurred for Customer's Equipment rental if Customer cancels its order prior to the start of the Rental Period.

11. Rental Rates; Payment; Fees. The rental rates are indicated by Atlas Copco in its written quotation. Unless otherwise agreed to in writing, if Atlas Copco provides any service, service charges will apply. Unless otherwise agreed to in writing, the payment terms are Net 30 days after Atlas Copco's invoice date. Amounts past due will bear interest at a monthly rate of 1.5% (18% per annum) or the maximum rate allowed by law, whichever is lower. Customer will pay all costs and expenses, including reasonable attorney's fees, incurred by Atlas Copco in collecting overdue amounts from Customer.

In the event Atlas Copco's Equipment is not allowed into Customer's site during an agreed time for any reason beyond Atlas Copco's control, Customer shall pay any expenses incurred by Atlas Copco for wait time plus five percent (5%). It is expressly agreed that if the rental period exceeds twelve (12) calendar months, the rental rates are subject to a price escalation up to a maximum of 5% over the preceding rental rate, unless otherwise agreed to by the parties. Atlas Copco shall provide Customer with thirty (30) days written notice prior to any price escalation, which shall take effect on Customer's next billing cycle.

12. Taxes. Taxes are not included in any price or rate, unless the price or rate specifically lists the tax as a line item. Customer is responsible for all applicable taxes (except any taxes on Atlas Copco's income) and governmental fees. If sales tax, use tax, or other taxes in addition to any listed specifically as part of the stated price or rate are imposed on Atlas Copco, Customer agrees to pay them or reimburse Atlas Copco.

13. Environmental Fees. Atlas Copco charges an Environmental Fee in connection with rental of certain machines. The Environmental Fee is not collected on behalf of any government agency. The Environmental Fee has been established by Atlas Copco to offset its direct and indirect environmental related expenses. The Environmental Fee (if any) shall be charged as follows: (a) Daily rentals: \$10 per day (per machine); (b) Weekly rentals: \$25 per week (per machine); (c) Monthly rentals: \$45 per month (per machine). These fee amounts are subject to change.

14. Use and Maintenance/Access. Customer will perform routine maintenance on the Equipment in compliance with Atlas Copco's instructions, except for any specific maintenance that Atlas Copco has agreed to perform in writing. Without limiting the generality of the foregoing, Customer will, at Customer's expense, perform daily observations of the oil level, Diesel Exhaust Fluid (“DEF”) level, where applicable, and the fuel level and add oil, DEF and fuel of the specified and approved types as necessary to maintain the oil, DEF and fuel levels within the proper ranges. Additional maintenance related Customer responsibilities are set forth in Atlas Copco's written quotation. Unless expressly agreed otherwise by Atlas Copco, Customer may not perform Equipment repairs. Customer may not install, store, operate, use, or maintain the Equipment improperly or in violation of any applicable law or regulation. Only properly trained authorized individuals, who are not under the influence of drugs or alcohol or otherwise impaired, may use, operate, and maintain the Equipment. Should the Equipment become unsafe, malfunction, or require repair, Customer must immediately cease the use and notify Atlas Copco. Customer shall provide Atlas Copco necessary access to the Equipment to perform required maintenance and/or to swap out the Equipment for proscribed service. **IN THE EVENT CUSTOMER FAILS TO COMPLY WITH THE PROVISIONS OF THIS SECTION, CUSTOMER AGREES TO INDEMNIFY AND HOLD ATLAS COPCO HARMLESS FROM AND AGAINST ANY AND ALL LIABILITY, LOSS, EXPENSES, AND DAMAGES ARISING FROM THE FAILURE AND TO REIMBURSE ATLAS COPCO FOR ANY COSTS INCURRED TO REMEDY THE CONSEQUENCES OF SUCH FAILURE.**

15. Site Safety. Atlas Copco and Customer acknowledge that if Atlas Copco will be on Customer's site, each party will comply with all applicable Federal, State, and local health or safety laws and regulations. If Customer requests that Atlas Copco comply with Customer's on-site health/safety programs or procedures, Atlas Copco will comply with those safety programs or procedures that have been provided in advance with reasonable opportunity to review to the extent applicable to the scope of service. Neither party's safety-related obligations nor responsibilities under any law or regulation (including OSHA) will be transferred, in whole or in part, to the other party.

16. Ownership of Equipment. Customer acknowledges that the Equipment is the property of Atlas Copco. Customer may not sub-rent, loan, assign, alter, or dispose of the Equipment. Customer may not tamper with, cover, remove, or deface any serial number, plate or marking (including but not limited to any Atlas Copco logo) on the Equipment. The Equipment is, and will at all times remain, personal property regardless of its use or manner of attachment to any personal or real property. Customer will keep the Equipment free and clear of all liens, levies, and encumbrances. Atlas Copco may, upon reasonable notice, inspect the Equipment during regular business hours.

17. Remote Monitoring. Atlas Copco may install remote data monitoring devices for the Equipment, and/or use the Equipment's existing remote data monitoring devices (if any). Atlas Copco (and/or certain authorized Atlas Copco contractors) may at any time (but shall not be obligated to) monitor, access, view, and/or use the data for the purposes of monitoring the location of the Equipment, helping determine the condition and status of the Equipment, helping service scheduling, and/or potentially increasing overall customer service. Atlas Copco shall use commercially reasonable efforts to prevent unauthorized disclosure of the data. Atlas Copco reserves the right to terminate, suspend, and/or modify the remote monitoring at any time in whole or in part. Any remote monitoring is provided “AS IS” and “AS AVAILABLE”, with no warranty of any kind. **ATLAS COPCO HEREBY EXPRESSLY DISCLAIMS ALL WARRANTIES (EXPRESS, IMPLIED, AND OTHERWISE) RELATING TO REMOTE MONITORING, INCLUDING BUT NOT LIMITED TO WARRANTIES OF FITNESS FOR A PARTICULAR PURPOSE AND WARRANTIES OF MERCHANTABILITY.** Without limiting the generality of the foregoing, Atlas Copco hereby expressly disclaims all warranties regarding the reliability, accuracy, functionality, completeness, up-time, security, timeliness, and/or performance including but not limited with respect to any remote monitoring and/or any related software, hardware, technology, data, transmission, network, and application.

18. Risk of Loss. Customer is responsible for all risk of loss to the Equipment during the Rental Period. Customer is solely responsible for and agrees to pay Atlas Copco the full replacement value for replacing and/or repairing damage to the Equipment from any cause whatsoever, and further agrees to pay Atlas Copco all expenses for loss of use (calculated at the relevant rental rate), claim administration fees, diminishment in value, towing, storage, or impound fees, and costs incurred by Atlas Copco to recover the Equipment and establish damages, regardless of fault or negligence of the Customer or any person, and regardless if damages are the result of an Act of God. Notwithstanding the foregoing, the Customer is not responsible for damage or loss to the Equipment to the extent that the same is caused by (a) a latent defect in the Equipment, (b) failure of Atlas Copco to properly perform its agreed-upon maintenance on the Equipment, or (c) any act or omission of Atlas Copco. In the alternative, Customer may elect the RRELO by electing the benefit provided in Section 9 (RRELO), in writing, at the time of entering into this rental agreement.

19. Notice of Damage, Loss or Accident. Accidents, loss, theft, damage or failure of the Equipment must be reported immediately by telephone and within 24 hours in writing to the Atlas Copco facility where the Equipment was rented and to the public authorities (where required by law or by Atlas Copco). Customer and its employees or agents must provide Atlas Copco and the public authorities with complete information and assistance in the investigation and prosecution of any matter arising from the accident, loss, theft or damage, including the immediate delivery of every process, pleading or paper relating to any claims, suits and proceedings, and must cooperate with Atlas Copco in all manners connected with any claims or suits.

20. Location of the Equipment. Customer may not move the Equipment from Customer's address or location indicated in the rental agreement without prior written notice to Atlas Copco. In no event may Customer move the Equipment outside the United States.

21. Default. Customer will be in default if Customer: (a) fails to pay any rent when due, (b) breaches any material term of these Rental Terms, (c) becomes insolvent or ceases doing business or is designated as the debtor in a petition for bankruptcy filed by or against Customer, or (d) defaults on any other agreement with Atlas Copco. In the event of Customer's default, Atlas Copco may peaceably enter Customer's premises without legal process or liability to render the Equipment inoperable or remove the Equipment. Atlas Copco may also terminate the rental agreement without notice to Customer and without prejudice to any other claims Atlas Copco might have against Customer, and Customer will remain liable for any loss or damage to the Equipment notwithstanding the termination. Customer agrees to pay Atlas Copco all monies due for the remainder of the rental term as liquidated damages and not as a penalty. Atlas Copco's remedies provided herein are not exclusive, but are cumulative to all other remedies existing by law and/or in equity.

22. Intellectual Property. No patents, copyrights, trademarks, or other intellectual property is being sold, assigned, or otherwise transferred to Customer. No drawings, designs, specifications, or anything else provided by Atlas Copco will be deemed to be "work made for hire" as that term is used under the U.S. Copyright Act.

23. Confidentiality. In connection with the rental and/or performance hereunder, Atlas Copco and Customer (as to information disclosed, the "Disclosing Party") may each disclose Confidential Information to the other party hereto (the "Receiving Party"). "Confidential Information" shall mean all information related to the business, products, or services of the Disclosing Party that is not generally known to the public, provided that the obligations of this paragraph shall not apply as to any portion of the Confidential Information which: (a) is or becomes generally available to the public other than as a result of disclosure by the Receiving Party, its representatives or its affiliates, or (b) has been or is subsequently independently developed by the Receiving Party, its representatives or affiliates, without reference to the Confidential Information, or (c) is required to be disclosed by law or valid legal process provided that the Receiving Party who intends to make such disclosure shall promptly notify the Disclosing Party in advance of such disclosure and reasonably cooperate in attempts to maintain the confidentiality of the Confidential Information. The Receiving Party agrees, except as otherwise required by law: (a) to use the Confidential Information only as authorized in these Rental Terms or as otherwise authorized in writing by the Disclosing Party to the Receiving Party, and (b) to take reasonable measures to prevent disclosure of the Confidential Information. Upon the Disclosing Party's request, the Receiving Party shall destroy or return to the Disclosing Party all copies of Confidential Information. If either party or any of their respective affiliates or representatives is required or requested by subpoena, interrogatories, or similar legal process to disclose any Confidential Information, such party agrees to provide the Disclosing Party with prompt written notice of such request, so that the Disclosing Party may seek an appropriate protective order or waive compliance by the Receiving Party with the provisions herein. This Section 23 survives any expiration/termination of the contract.

24. Miscellaneous. **24.1. THESE RENTAL TERMS CONTAIN THE ENTIRE AGREEMENT BETWEEN ATLAS COPCO AND CUSTOMER WITH RESPECT TO THE TERMS AND CONDITIONS, AND SUPERSEDE ANY PRIOR OR CONTEMPORANEOUS NEGOTIATIONS, COMMUNICATIONS, AND ORAL OR WRITTEN STATEMENTS REGARDING THIS SUBJECT MATTER.**

24.2. This agreement cannot be superseded, amended, or modified except by an agreement signed by representatives of each party. In no event will any Customer-issued boilerplate/pre-printed purchase order or document be considered a negotiated agreement regardless of whether it is signed by Atlas Copco.

24.3. Neither party may assign or transfer the rental agreement in whole or in part without the prior written consent of the other party (which consent shall not be unreasonably withheld); any purported assignment in violation of this sentence will be void. Irrespective of the foregoing, Atlas Copco may, without consent, assign the rental agreement to any of its affiliates and may use sub-contractors.

24.4. The provisions of these Rental Terms are severable and the invalidity or unenforceability of any provision hereof shall not affect the validity or enforceability of any other provision. In addition, if any provision of these Rental Terms (or portion thereof) is determined by a court to be unenforceable as drafted, the parties acknowledge that it is their intention that such provision (or portion thereof) shall be construed in a manner designed to effectuate the purposes of such provision to the maximum extent enforceable under applicable law.

24.5. Neither party's failure to enforce, nor its waiver of a breach of, any provision contained in these Rental Terms shall constitute a waiver of any other breach or of such provision.

24.6. All headings, captions and numbering in these Rental Terms are for convenience of reference only and shall not be used to interpret any meaning of any terms or condition.

24.7. The validity, performance, and all other matters relating to the interpretation and effect of these Rental Terms or the Agreement will be governed by the laws of the U.S. State in which Atlas Copco's applicable rental facility is located (without regard to any conflict of laws principles).

24.8. The parties are independent contractors under this agreement and no other relationship is intended including, without limitation, any partnership, franchise, joint venture, agency, employer/employee, fiduciary, master/servant relationship, or any other special relationship.

24.9. All rights and obligations contained in these Rental Terms, which by their nature or effect are required or intended to be kept, observed, or performed after the termination or expiration of the order/contract will survive and remain binding upon and for the benefit of the parties, their successors, and permitted assigns.