

GENERAL TERMS AND CONDITIONS OF SERVICE

1. Introduction

These conditions shall form part of every contract of providing service entered into by Atlas Copco Thailand Ltd. and any purported variation or exclusion (whether contained in any document of the customer or otherwise) shall be of no effect unless accepted in writing by Atlas Copco.

2 Formation and Scope of Contract

- (a) A service order whether or not based upon a quotation shall not be binding on Atlas Copco unless accepted by it in writing or entering into the written contract (as the case may be).
- (b) Any representations or warranties made or given by anyone on Atlas Copco's behalf prior to its acceptance of a service order and not contained in Atlas Copco's written quotation or service order acknowledgement are hereby expressly excluded.
- (c) Only such service as are specified in Atlas Copco's service order acknowledgement and/or written contract are included in the scope of the contract. Any additional work is not included.
- (d) Temporary hire of equipment is not included unless otherwise specified in the agreement.

3. The Responsibility and Rights of the Parties

- (a) The customer will ensure that the routine maintenance of the equipment is carried out in accordance with Atlas Copco instruction book.
- (b) The customer confirms that the instruction manual and operator's log book for the equipment are in his possession.
- (c) Atlas Copco will contact the customer before the planned time for visiting. The customer will then ensure the equipment is available for maintenance and inspection.
- (d) Unless otherwise specified, maintenance and inspection will be carried out during normal working hours, Monday to Friday. If this is not practical, any extra cost incurred by Atlas Copco in carrying out maintenance or inspection outside the normal working hours will be borne by the customer and invoiced separately.
- (e) If any major changes occur in operating or site conditions of the equipment, this agreement shall become null and void. Major changes would normally involve relocation of the unit or working condition.
- (f) The customer will give necessary assistance to Atlas Copco in the performance of its obligations under this agreement by providing lifting facilities, lighting, including other required facilities and unrestricted access to the equipment at the agreed time. Any cost and/or expense incurred by Atlas Copco as a result of access to the equipment or facilities being delayed from the agreed time will be borne by the customer and invoiced separately by Atlas Copco.
- (g) After each visit, a report on the condition of the equipment will be submitted to the customer by Atlas Copco.
- (h) Atlas Copco will respond to the customers call via Atlas Copco's hotline within 24 hours.

4 Working Conditions

- (a) The customer shall ensure that the maintenance is not carried out under dangerous or unhealthy conditions, and shall take all necessary measures to protect Atlas Copco's personnel from exposure to any safety or health hazard.
- (b) The customer shall ensure that Atlas Copco's personnel are informed of any safety regulations in force at the place where the maintenance is carried out.
- (c) Atlas Copco shall inform the customer of any special hazards that the maintenance work may entail.

5 Technical Document

The customer shall provide the technical documentation (e.g. up to date drawings, descriptions, charts and instructions) in his possession, which is necessary for carrying out the agreed maintenance. Atlas Copco may not use such documentation for any purpose other than to fulfil the contract.

6 Defect

The customer shall without undue delay notify the Atlas Copco in writing of any defect, which appears in the work performed, or the parts provided by Atlas Copco. In this regard, Atlas Copco shall remedy such defect without delay by its own cost. If the customer fails to give notice of a defect without undue delay he shall lose his rights in respect of the defect.

7 Guarantee Period

- (a) Unless otherwise specified, Atlas Copco guarantees that the equipment and material used for proving the service is in good condition, suitable for use, and meet the standard.
- (b) Unless otherwise agreed Atlas Copco shall be liable for the preventive maintenance work during the currency of the contract and for a period of six months after the contract has expired. Atlas Copco shall be liable for corrective maintenance work for a period of six months after the work was performed.
- (c) Atlas Copco's liability for parts provided under the contract shall only apply to defects which become apparent within twelve months after installation or delivery to the customer (in the case that Atlas Copco has not installed it by itself).

8 Service Fee

- (a) All service fee quoted by Atlas Copco are unless specified differently including all payment for all work carried out by Atlas Copco and transport cost but exclusive of any taxes or dues levied.
- (b) Unless otherwise agreed the corrective maintenance carried out by Atlas Copco shall be paid on a time basis.
- (c) In case of corrective maintenance Atlas Copco shall, at the customer's request, provide a price estimate after fault tracing but before undertaking any other work. The estimate shall not be binding, but Atlas Copco shall inform the customer if it becomes apparent that the final price will exceed the estimate by more than 10 percent. If the customer, after receiving the price estimate or such last mentioned notice, chooses not to proceed, the customer shall nevertheless pay Atlas Copco for the work that has performed.
- (d) The price is fixed for the entire validity period of the agreement. In case preventive maintenance spare parts are invoiced separately, spare parts prices will be updated on yearly basis.
- (e) If Atlas Copco's personnel are required to work outside normal working hours or to wait due to circumstances for which the customer is responsible, the costs therefore shall be invoiced separately in accordance with the norms currently applied by Atlas Copco.

9. Payment

- (a) Unless otherwise agreed the service fee for preventive maintenance shall be paid before the start of each contract period. Payment shall be made against invoice no later than 30 days after the date of the invoice. Any other payment shall be made against invoice no later than 30 days after the date of the invoice.
- (b) In the event of any delay in payment, unless otherwise specified, Atlas Copco shall be entitled to charge interest on any outstanding balance at the rate of 1.5 % per calendar month or part thereof. During such period of default and at any other time when the customer shall be in breach of the terms of the contract or Atlas Copco shall have reasonable grounds for doubting that payment will be made on the due date, Atlas Copco shall be entitled to suspend the service providing until payment will be received. The customer shall then further compensate Atlas Copco for any additional costs incurred when resuming the service.

10 Limitations and Termination

- (a) Atlas Copco shall not be responsible in the event of:
- (i) Negligence by the customer of daily maintenance described in Clause 3 (a); or
- (ii) Any failure of the equipment caused by quality and/or quantity of cooling water, air, electrical power, accidental or willful damage to the equipment by the customer or the third party.
- (b) At any case, Atlas Copco shall be liable for damage to the customer's property caused by Atlas Copco's negligence in connection with the maintenance work under the contract. Atlas Copco's liability shall, unless otherwise agreed, for each occurrence be limited to Baht [*].
- (c) Unless otherwise specified, this agreement may be terminated by both parties with a prior notice period of 3 months. In any case, the agreement will be valid for a minimum of 12 months.
- (d) Atlas Copco shall be entitled to immediately terminate this agreement forthwith by giving notice in writing to the customer in the circumstances referred to in Clauses 3 (e) and 5 (a).
- (e) Atlas Copco shall not be liable to the customer for any loss of profit or other consequential loss of the customer arising out of or in connection with the provision of any goods or services pursuant to this agreement and shall only be liable for personal injury or damage to property, except in the case of intentionally or negligently.
- (f) In the event of the customer suffering any distress or execution to be levied against him or entering into any arrangement with its creditors or (being an individual) becoming subject to the bankruptcy conditions shall be entitled to enter upon any land or premises where the goods or any laws or (being a company) entering into liquidation otherwise than for the purposes of amalgamation or reconstruction or having a receiver appointed of the whole or any part of its assets, Atlas Copco without prejudice to its other rights under this agreement to terminate this agreement with the customer.

11 Force Majeure

Notwithstanding the provisions of any other term of the contract, a party shall not be regarded as in breach thereof to the extent that such party is prevented from or hindered in fulfilling its obligations by any circumstances outside its reasonable control (including strikes, lockouts, and shortages of materials).

12 Trade Compliance

- (a) Notwithstanding any provision or clause in the Contract to the contrary, any quotation issued by Atlas Copco is legally binding upon Atlas Copco only after the Customer has received a written acceptance from Atlas Copco of any order from the Customer based on that quotation and Atlas Copco can at any point in time withdraw Atlas Copco's quotation.
- (b) By placing any order with Atlas Copco, the Customer certifies, warrants and represents that the order will not be used for any purpose connected with chemical, biological or nuclear weapons, or missiles capable of delivering such weapons, nor any other purpose prohibited by applicable law.
- (c) In addition to clause 12(b), the Customer further certifies, warrants and represents that the Customer will comply with applicable local and international foreign trade and customs requirements or any embargos or other sanctions.
- (d) The Customer will immediately notify Atlas Copco, in writing, of any breach or possible breach of this clause 12.
- (e) Atlas Copco shall not be obligated to fulfil a binding order or agreement or any part thereof or related to it, nor liable for its non-fulfilment, if such fulfilment is prevented by any impediments arising out of applicable local and/or international foreign trade and customs requirements or any embargos or other sanctions.
- (f) Atlas Copco shall have the right to terminate a Contract, binding order or agreement or any part thereof or related to it, with immediate effect and without prior notice, if fulfilment is prevented by any impediments arising out of applicable local or international foreign trade and customs requirements or any embargos or other sanctions.
- (g) The Customer shall indemnify Atlas Copco for any direct or indirect damages arising in consequence of or otherwise in connection with any breach of this clause 12.

12 Legal Construction

The contract shall in all respects be governed by and construed in accordance with Thai Law.

13 Discrepancies

In case there is any discrepancy in any provision of this terms and conditions and the contract, the provision in this terms and conditions shall prevail.