

**GENERAL TERMS AND CONDITIONS OF SALES CONTRACTS
FOR CONSTRUCTION MACHINES OF ATLAS POLAND SP. Z O.O.**

§1. Definitions

The terms used in these GT&CC shall mean as follows:

1. *Seller* - Atlas Poland Sp. z o.o. with its registered office in Rumia at the address: ul. Towarowa 31, 84-230 Rumia, entered into the Register of Entrepreneurs of the National Court Register kept by the District Court Gdańsk-Północ in Gdańsk under KRS [National Court Register] number: 328594. NIP [Tax ID No.]: 586-22-37-547, REGON [National Business Reg. No.]: 220779869, with share capital of. PLN 50,000 paid in full,
2. *Buyer* - entrepreneur who has concluded the Sales Contract with the Seller or negotiates with him to conclude such a Contract as well as User, when based on a leasing contract concluded with the Buyer, he exercises the rights vested in the Buyer;
3. *User* - entrepreneur who has concluded a leasing contract with the Buyer for a Machine bought by the Buyer from the Seller;
4. *Machine or Subject of the Contract* - excavators, haul trucks, loaders and other construction machines offered by the Seller or being the subject of the Sales Contract concluded as well as parts for these machines and their equipment or additional equipment,
5. *Sales Contract* - contract based on which the Seller undertakes to transfer an ownership right onto the Buyer to a particular Machine and to release it to him, and the Buyer undertakes to collect it and pay a price;
6. *GT&CC* - these General Terms and Conditions of Sales Contracts for Construction Machines of Atlas Poland Sp. z o.o.

§2. General provisions

1. These GT&CC shall be applicable to all Sales Contracts in which Atlas Poland Sp. z o.o. acts as a seller.
2. The GT&CC constitute an integral part of the Sales Contract.
3. In case of discrepancies between particular provisions of the Sales Contract and the GT&CC, provisions of the Sales Contract shall be applied.
4. Adoption of provisions different from the text of the GT&CC requires both parties' consent given in writing under pain of being null and void.

§3. Conclusion of the Sales Contract

1. The Sales Contract shall be concluded by signing a written contract by the Seller and Buyer in the form of a separate document. Signing of the Sales Contract may be preceded by an offer placed by the Seller.
2. If the Buyer is a lessor, the Sales Contract may also be concluded by the Buyer's acceptance of an offer itself placed by the Seller without drawing up a contract in the form of a separate document.
3. An offer may be placed by the Seller in a written form or by fax, email or online via the Internet. In case of placing an offer by electronic means, Article 66¹ § 1-3 of the Civil Code shall not be applied.
4. The Buyer's acceptance of an offer placed by the Seller may take place in a written form, verbal form, by means of distance communication or impliedly by starting to perform the contract. However, if the Buyer reserves any changes in the Seller's offer, he should do this immediately in a written form under pain of nullity.
5. If the Subject of the Contract includes parts for Machines, the Sales Contract may also be concluded by placing an order by the Buyer and by its acceptance by the Seller in a written form, verbal form or by means of distance communication. However, if prices or terms and conditions of an order are to differ from standard prices or terms and conditions applied by the Seller, the Seller's consent to these different prices or terms and conditions should be given in a written form under pain of nullity or by email.
6. Appendixes mentioned in the Sales Contract or the Seller's offer constitute its integral part.
7. By signing the Sales Contract, by accepting the Seller's offer or placing an order for a Machine the Buyer confirms that he has received the GT&CC and other appendixes, has familiarised himself with them and gives his consent to their contents.

§4. Subject of the Contract

1. New or used Machines may be the subject of the Sales Contract. With regard to new Machines the Sales Contract includes a ready for use machine chosen by the Buyer or a machine which will be manufactured and delivered upon the Buyer's order.
2. The Seller is not a manufacturer of Machines or their parts.
3. A specification (properties) of the Subject of the Contract is determined by the Sales Contract, the Seller's offer or manufacturer's information.
4. Conclusion of the Sales Contract means that the Buyer has familiarised himself with the specification of the Subject of the Contract and declares that the Subject of the Contract is suitable for achievement of the objective defined in this contract or arising from circumstances or normal operational conditions of an object.
5. If the Subject of the Contract is to have additional properties required by the Buyer or serve the purpose other than the one arising from circumstances or normal operational conditions of an object, this objective and these properties must be reserved in a written form under pain of nullity in the Sales Contract or the Seller's offer.
6. If after conclusion of the Sales Contract it turns out that a Machine, its parts, equipment or additional equipment are no longer produced by manufacturer or their installation in a given Machine is impossible, the Seller may offer another Machine to the Buyer, its parts, equipment or additional equipment or reduce a price appropriately. The Buyer may withdraw from the Sales Contract only if failure to deliver an original Machine, its parts, equipment or additional equipment did not matter to him in view of the objective clearly laid down in the Sales Contract. Other claims are excluded, including claims for a compensation

in the event of withdrawal from the contract.

7. Using the Subject of the Contract should take place with due diligence, in accordance with normal operational conditions of an object as well as the terms and conditions specified in an instruction manual. The Buyer is obliged in particular to inform the Seller about a necessity to conduct a periodic inspection. In case of any doubts connected with the manner or terms and conditions of using the Subject of the Contract, and in particular in situations which have not been discussed sufficiently in an instruction manual, the Buyer is obliged to seek guidelines or information from the Seller. If the Buyer infringes these obligations, a manufacturer and the Seller shall not bear liability for damage arisen from this.

§5. Place and date of releasing the Subject of the Contract

1. The date and place of releasing the Subject of the Contract are specified by the Sales Contract.
2. If the Buyer is behind with payment of the entire price or its part, the date of releasing the Subject of the Contract shall be extended by the time of this delay.
3. If the date of releasing the Subject of the Contract and the date of payment of the entire price or its part have been set at the same date, the Subject of the Contract may be released by the Seller not earlier than after payment of the price by the Buyer.
4. If the date of release has not been set or met, the Buyer may call on the Seller to release the Subject of the Contract within a particular time-limit, not shorter than six weeks, under pain of withdrawal from the Sales Contract; other claims are excluded.
5. In the case referred to in the preceding section, the Seller's liability is confined to delivery of the Subject of the Contract within an additionally set time-limit, and if the Buyer withdraws from the Sales Contract - to reimbursement of the price paid by the Buyer; any other liability of the Seller (including compensatory liability) on account of delay or default in releasing the Subject of the Contract and on account of withdrawal from the Sales Contract by the Buyer is excluded. If delay or default in release refers to parts of a Machine, its equipment or additional equipment, the right to withdraw from the Sales Contract and demand reimbursement of the price is confined to this part of the Sales Contract and Price which refers to them.
6. If the place of release has not been set, it is assumed that the Subject of the Contract should be released in the Buyer's registered office, and if the Buyer is a natural person - in the place where business activities are run by him. However, if the Sales Contract has been concluded through the intermediary of a branch office or agency of the Buyer, the Subject of the Contract should be released in this branch office or agency.

§6. Transport, transfer of ownership right and risk, permission to use

1. The Seller shall deliver the Subject of the Contract to the place of release and shall bear transport costs connected with it. However, if the Subject of the Contract includes parts for Machines, equipment or additional equipment, transport costs shall be borne by the Buyer (if these costs have been paid by the Seller, the Buyer shall reimburse them to him in the amount indicated in an invoice, and if these costs have exceeded the amount shown in an invoice - in the actually incurred amount).
2. If the Seller delivers the Subject of the Contract to the place of release on means of transport, the Buyer shall unload the Subject of the Contract from the means of transport, shall ensure an operator and equipment for unloading and shall incur costs related to this. Should this be the case, a risk of accidental loss of or damage to the Subject of the Contract shall be transferred onto the Buyer upon starting the unloading process from the means of transport.
3. If the place of release is in the registered office or agency of the Seller or the Buyer collects the Subject of the Contract from the Seller and transports the Subject of the Contract on his own to the place of release, the Buyer shall load the Subject of the Contract onto means of transport, shall ensure an operator and equipment for loading and shall incur costs related to this. Should this be the case, a risk of accidental loss of or damage to the Subject of the Contract shall be transferred onto the Buyer upon starting the process of loading the Subject of the Contract onto the means of transport.
4. In other cases the risk of accidental loss of or damage to the Subject of the Contract shall be transferred onto the Buyer upon actual hand-over of the Subject of the Contract to him, and if despite the Seller's readiness the Buyer has not collected the Subject of the Contract within a set time-limit - from the moment when the Seller was ready to release the Subject of the Contract to the Buyer.
5. Benefits and encumbrances connected with the Subject of the Contract shall be transferred onto the Buyer from the same moment as the risk of accidental loss of or damage to the Subject of the Contract.
6. The ownership right to the Subject of the Contract shall be transferred onto the Buyer upon payment of the entire price. The Buyer is obliged to insure the Subject of the Contract against all risks for the period from the date of its release to the moment of transfer of the ownership right onto the Buyer. If the Buyer fails to fulfil this obligation or fails to inform the Seller about its fulfilment, the Seller is entitled to insure the Subject of the Contract at the Buyer's expense. By the moment of transfer of the ownership right the Buyer cannot use the Subject of the Contract.
7. The Buyer shall be encumbered with all formalities and costs connected with permission to use the Subject of the Contract, in particular he shall be obliged to conduct procedures, research, tests, acceptance processes, to obtain decisions, permits, certificates, certifications or other documents required by the law. These formalities shall be carried out and these documents shall be obtained upon exercise of due diligence by the Buyer at his cost and risk.

§7. Release and collection/acceptance, collection/acceptance report

1. A staff member, contract holder or another person acting on the Buyer's behalf in the place of releasing the Subject of the Contract shall be the person authorised

- by the Buyer to collect/accept the Subject of the Contract (including to sign a collection/acceptance report).
- The fact of releasing and receiving/accepting the Subject of the Contract shall be ascertained in a hand-over report drawn up in the place and at the moment of handing over the Subject of the Contract. Each and every Party is obliged to sign the report. If the Subject of the Contract is actually released, and the Buyer does not sign the report, the Seller is entitled to draw up the collection/acceptance report on an unilateral basis.
 - If the date of releasing the Subject of the Contract and the date of payment of the entire price or its part have been set in the Sales Contract at the same date, the Parties undertake to release and collect/accept the Subject of the Contract in the following manner: (i) the Seller notifies the Buyer of readiness for handing over the Subject of the Contract in the place of release, (ii) based on this notification the Buyer - until 04.00 PM of the same day in which he received it - shall pay a due price into the Seller's bank account and shall send a confirmation of payment to the Seller by email or fax, documented at least by means of an international confirmation of transfer - SWIFT, and in the case of payment in Polish currency - a confirmation of transfer in ELIXIR or SORBNET system, (iii) based on a confirmation of price payment obtained, the Seller shall release, and the Buyer shall collect/accept the Subject of the Contract, which shall be ascertained by both of them by signing the hand-over report.
 - The Buyer is obliged to examine the Subject of the Contract upon release. If the Subject of the Contract has any defects, the Parties undertake to apply the following manner of proceeding: (i) the Seller shall release and the Buyer shall collect/accept the Subject of the Contract, (ii) the fact of releasing and receiving/accepting shall be confirmed by the Parties by means of a hand-over report, (iii) the Buyer shall report defects of the Subject of the Contract to the collection/acceptance report upon its being drawn up in a written form under pain of nullity, (iv) the Buyer shall enable the Seller to remove defects of the Subject of the Contract, (v) the Seller shall remove defects of the Subject of the Contract if he bears liability for such defects, under the principles and within the limits specified in §9 of the GT&CC within a time-limit arising from the character of a defect.
 - Provisions of the preceding section shall not be applied if the Seller's liability for defects of the Subject of the Contract is excluded or if the Buyer knew the technical condition of the Subject of the Contract upon conclusion of the Sales Contract. Should this be the case, the Seller is not liable for removal of or obliged to remove defects.
 - In the cases specified in two preceding sections the Buyer cannot refuse to collect/accept the Subject of the Contract or withdraw from the Sales Contract due to physical defects of the Subject of the Contract.
 - The Subject of the Contract shall be deemed to have been released upon starting the process of its unloading from the Seller's means of transport (if the Seller delivers the Subject of the Contract to the Buyer on means of transport to the place of release) or upon starting the process of its loading onto the Buyer's means of transport (if the place of release is in the registered office or agency of the Seller or if the Buyer collects/accepts the Subject of the Contract from the Seller and transports the Subject of the Contract on his own to the place of release). In other cases the Subject of the Contract shall be deemed to have been released upon its actual hand-over to the Buyer.
 - If despite the Seller's readiness the Buyer does not collect/accept the Subject of the Contract within a set time-limit, the Buyer is obliged to collect/accept it at his own cost and risk from the Seller.
 - If the Subject of the Contract includes parts for Machines, provisions of this paragraph shall be applied *mutatis mutandis*, subject to the fact that instead of signing a hand-over report, it is enough that the Buyer shall acknowledge the receipt of delivery from a courier who has delivered parts ordered.
- §8. Price, payment dates/time-limits and other settlements**
- The price of the Subject of the Contract and dates/time-limits of its payment are specified by the Sales Contract or the Seller's offer, and if it has not been indicated in them - VAT invoice or current price list of the Seller.
 - Value Added Tax (VAT) must be added to the prices given in the Sales Contract, the Seller's offer, invoice or price list, according to the rate in force upon sale. In case of a change of the VAT rate after conclusion of the contract or placement of an offer by the Seller, the Buyer is obliged to pay the price taking the current rate of this tax into consideration.
 - If a payment date/time-limit has not been set, the price should be paid before releasing a Machine within the time-limit stated in the Seller's invoice or to a courier on delivery if this way of delivery has been chosen.
 - A date when the Seller's bank account is credited with cash shall be the payment date.
 - The price shall be paid on the basis of VAT invoice or PROFORMA invoice issued by the Seller.
 - If the price has been set in EUR or another foreign currency, the payment may be made in Polish currency calculated according to the selling rate of exchange of EUR or this other currency, announced on a date of issuing VAT invoice or PROFORMA invoice by a bank keeping the Seller's account in EUR or in this other currency.
 - The price shall be paid by transfer into the Seller's bank account indicated in the Sales Contract or invoice or to a courier on delivery if this method of delivery has been chosen.
 - Payment of other receivables vested in the Seller from the Buyer (compensations, contractual penalties) shall be made in such a currency in which the price has been determined unless these receivables have been incurred in another currency.
 - If the Buyer resigns from performance of the Sales Contract or does not perform it for reasons on the part of the Seller, the Seller may withdraw from the Sales Contract without setting an additional time-limit. Should this be the case, the Buyer is obliged to pay a contractual penalty to the Seller in the amount of 10% of the price for the Subject of the Contract as well as to immediately return the Subject of the Contract at his expense to the Seller's registered office. If an amount of damage suffered by the Seller exceeds value of the contractual penalty, the Seller may seek a compensation under general principles.
- If the Buyer is behind with payment of the price for the Subject of the Contract, the Seller, regardless of other rights, may demand interest for the time of delay and equivalence of EUR 40 converted into PLN according to the average exchange rate of EUR announced by the National Bank of Poland on last working day of a month, preceding the month in which the price came due, constituting a compensation for receivables recovery costs as well as incurred receivables recovery costs exceeding this amount.
- §9. Liability, service**
- The Seller shall bear liability towards the Buyer on guilt basis unless the GT&CC provide for otherwise.
 - The Seller does not bear liability for non-performance or improper performance of the Sales Contract due to circumstances which are not his fault, force majeure, orders of authorities as well as due to a strike or downtime at a Machine's manufacturer.
 - The Seller and a Machine's manufacturer do not bear liability towards the Buyer for profits lost by the Buyer, incurred losses, suffered indirect damage or downtime.
 - The Seller's liability towards the Buyer is confined to: (i) repair or replacement of a defective element of the Subject of the Contract - provided that in accordance with the GT&CC the Seller bears liability for defects of a Machine and (ii) in case of default in releasing a Machine - its delivery within an additional time-limit set by the Buyer; other claims (including compensatory claims) are excluded, also in the case of withdrawal from the Sales Contract.
 - The Seller's liability for physical defects of a Machine is excluded.
 - If a guarantee has been granted for a Machine or its part, any liability for physical defects of the Machine shall be borne by a guarantor within the guarantee provided.
 - If the Subject of the Contract is covered by quality guarantee granted by a manufacturer or the Seller, defects of the Subject of the Contract are removed within the granted guarantee, under the terms and conditions and within the scope specified in it. Making a guarantee declaration is required to grant a guarantee, included in a separate document provided to the Buyer, specifying terms and conditions of guarantee. These GT&CC do not constitute the guarantee declaration or guarantee document.
 - In case of defects (including faults, failures/breakdowns) not covered by a guarantee or if a guarantee has not been granted for the Subject of the Contract:
 - all defects (including faults, failures/breakdowns) of the Subject of the Contract are removed against payment in line with current prices of the Seller, manufacturer or their co-operators;
 - a defect (including fault, failure/breakdown) of the Subject of the Contract is notified to the Seller by the Buyer; a staff member, contract holder or another person making the notification on the Buyer's behalf is a person authorised by the Buyer to make this notification; this notification is tantamount to a demand to make a repair;
 - the Buyer is obliged to make a Machine available to carry out a repair.
 - repairs of the Subject of the Contract are made only in the territory of Poland;
 - the Seller, manufacturer or their representative: (i) shall establish the reason for and character of a defect (including fault, failure/breakdown), and findings made in this manner shall be binding; (ii) carries out a repair within time determined by character of a defect (including fault, failure/breakdown), but not shorter than one month;
 - the Seller may at any time make performance or continuation of a repair conditional on the Buyer's payment of the entire remuneration or its part in advance on this account;
 - detailed principles on removal of defects (including faults, failures/breakdowns) are laid down in the General Service Terms and Conditions of Atlas Poland Sp. z o.o.
 - Periodic inspections of the Subject of the Contract are conducted against payment in line with current price list of the Seller, regardless of whether a guarantee has been granted for the Subject of the Contract. The Buyer is obliged to notify the Seller or an authorised representative of a manufacturer of a necessity to carry out a periodic inspection of the Subject of the Contract at least one week before the date arising from the instruction manual.
 - Provisions of the GT&CC concerning the limitation or exclusion of the Seller's liability shall remain in force and shall also be applied in case of withdrawal from the Sales Contract.
- §10. Final provisions**
- If the Sales Contract has been concluded in a written form, its amendment or supplement shall require the same form under pain of being null and void.
 - If the GT&CC do not provide for otherwise, information and declarations of the Parties in matters connected with coordination of performance of the Sales Contract (including reporting defects, faults, failures/breakdowns and demands to repair them after releasing the Subject of the Contract) may also be provided in an electronic form.
 - To matters not governed herein provisions of the law in force shall be applied.
 - The Sales Contract and the GT&CC are subject to the Polish law, and disputes arising from them shall be settled by a common court of law having territorial jurisdiction over the Seller.
- President of the Management Board
- Matthias Fülner
- Rumia, dated: 20 December 2016