

# Standard Terms & Conditions for the Sale of Goods & Services

## 1. DEFINITIONS

**Buyer** means the purchaser, whose name is set out in Howden's quote or as shown in Howden's acceptance of the Buyer's order.

**Contract** means the agreement arising as a result of the Buyer's acceptance of Howden's quote, or Howden's acceptance of the Buyer's order, incorporating these terms and conditions.

**Contract Price** means the total sum payable as specified in the Contract.

**Direct Costs** means such direct costs borne and incurred by Howden associated with the Contract up to and including the date of suspension and/or termination, including but not limited to manufacturing costs, salaries, third party supplier costs and reasonable overhead and profit margin.

**Goods** means the equipment, parts or materials as specified in the Contract.

**Gross Negligence** means a voluntary disregard of a reckless nature, which is so great it appears to be a conscious violation of other people's rights to safety.

**Howden** means the Howden business unit, which bids for, or accepts an order from the Buyer.

**Howden Uptime Hardware** means tangible components of the Howden Uptime Solution installed on or otherwise connected to the Goods, for example, sensors, Edge device and other monitoring hardware.

**Howden Uptime Solution** means the Howden Uptime cloud-based web and mobile applications software solution for optimising rotating equipment performance, offered by Howden, including the Hardware.

**Services** means the supervisory and/or technical services required at site as specified in the Contract.

## 2. CONDITIONS

2.1 The acceptance of Howden's quote or the acceptance by Howden of the Buyer's order shall be subject to these terms and conditions and to such other terms and conditions (if any) stated in or referred to in Howden's quote or Howden's official order acceptance. All other terms and conditions are excluded unless expressly agreed by Howden in writing.

## 3. PERFORMANCE

3.1 Any figures quoted by Howden for performance are based on Howden's experience and are such as Howden expects to attain on test. However, Howden accepts no liability for failure to attain any such figures unless Howden specifically guaranteed them, subject to any tolerances specified or agreed to by Howden.

## 4. INSPECTION AND TESTS

4.1 Howden products are carefully inspected and, where practicable, subject to Howden's standard tests before dispatch. If tests other than those specified in Howden's quote or tests in the presence of the Buyer or the Buyer's representative are required, these will be at additional cost to the Buyer. If the Buyer delays in carrying out any inspection or attending such tests after being given at least forty-eight (48) hours' notice that Howden is ready to test, the inspection, or tests, will proceed in the Buyer's absence and shall be deemed to have been made in the Buyer's presence and the results accepted by the Buyer.

## 5. TERMS OF PAYMENT

5.1 Unless otherwise agreed, payment shall be made within thirty (30) days from the date of Howden's invoice.

5.2 Should any payment fall into arrears Howden is entitled to postpone or cancel performance of the Contract wholly or in part and to be paid immediately for performance of the Contract to date.

5.3 Howden reserves the right to: (i) charge interest on any late payment of eight percent (8%) per annum above the base rate quoted by the Bank of England from time to time on the daily balance from the due date until payment is made; and (ii) require the Buyer to pay all of Howden's collection costs.

5.4 For milestone payments required under the Contract, Howden may invoice on the original milestone completion date if the milestone is not met, due to the Buyer's fault, untimely response or unreasonable delay.

5.5 If, in Howden's reasonable opinion, the Buyer's financial condition may jeopardise full or timely payment, Howden may: (i) require full or partial payment as a condition to commencing or continuing Howden's performance (including in advance of any shipment), or (ii) recover the Goods from the carrier if the shipment has been made.

5.6 No claim by the Buyer under warranty or otherwise shall entitle the Buyer to any deduction, retention or withholding of any part of the Contract Price. The terms of payment must be adhered to and any such claims handled separately.

## 6. DELIVERY

6.1 Unless otherwise agreed, delivery shall be Ex-Works in accordance with Incoterms 2020, and part deliveries shall be acceptable to the Buyer.

6.2 If Howden is unable to achieve the agreed Incoterms for reasons which are not attributable to or are beyond the control of Howden within fourteen (14) days from notification of Goods readiness, Howden shall be entitled to invoice the Buyer and receive payment for the Goods. Furthermore, after this fourteen (14) day period, storage or warehousing costs will be chargeable to the Buyer in accordance with clause 7.1.

## 7. STORAGE/WAREHOUSING

7.1 If the Buyer, for reasons not attributable to or beyond the control of Howden, is unable to: (i) take delivery of the Goods; (ii) arrange storage; or (iii) where applicable, give Howden its forwarding instructions to enable the dispatch of the Goods within fourteen (14) days from notification of Goods readiness, Howden may provide for storage or arrange warehousing on the Buyer's behalf, in each instance at the Buyer's risk and cost. All such charges shall be due and payable by the Buyer on receiving a simple receipt from Howden or the warehouse keeper as evidence of such storage or warehousing.

## 8. TITLE AND RISK

8.1 Legal and beneficial ownership (title) of the Goods shall remain vested in Howden until the Buyer has made full payment of the Contract Price.

8.2 The Goods will be at the Buyer's risk from the date of delivery, or if the Buyer for any reason delays delivery, risk will transfer to the Buyer from the date that delivery should have taken place.

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### 9. PRICING AND CONTRACT VARIATIONS

- 9.1** Unless otherwise agreed: (i) the Contract Price is exclusive of any sales, use, value-added or similar taxes ("Sales Taxes") and any import, export, customs duties, fees and similar charges ("Duties"); and (ii) the Buyer shall be responsible for payment of all Sales Taxes and Duties.
- 9.2** Howden shall be entitled to an equitable adjustment of the Contract Price and/or an adequate extension of time as required if: (i) the price of any raw material, labour or any other costs increase, which is beyond Howden's control; (ii) due to changes or delays caused by the Buyer; and/or (iii) Howden deems it necessary to vary any aspect of the Goods and/or Services due to an unforeseen change in any applicable law, local regulation or standard becoming effective or taking place after the conclusion of the Contract. Howden shall inform the Buyer in writing defining the changes deemed necessary in order to complete the Goods and/or Services in accordance with the Contract and any applicable law, local regulation or standard.
- 9.3** In the event of a variation to the Contract ("Variation Order" or "VO"), resulting in an extension to the delivery date(s), which will impact Howden's invoice schedule, Howden reserve the right to invoice the Buyer for the original Contract Price, in accordance with the most recent project plan, prior to the VO. Previous invoice milestones will be adjusted pro-rata and invoiced upon Howden's acceptance of the VO.

### 10. SUBCONTRACTING

- 10.1** At its option, Howden may arrange for the manufacture of proprietary and subcontracted Goods and/or assembly, testing or any site related Services to be carried out by Howden (Howden manufacturing facilities operate Quality Management Systems compliant with EN ISO 9001), and/or Howden's choice of approved subcontractor. Howden shall give the Buyer advance notice of its intention to exercise this option

### 11. LIABILITY FOR DELAY

- 11.1** Any lead times quoted by Howden shall run from Howden's acceptance of the Buyer's order and/or on Howden's receipt of all necessary information to enable Howden to commence work under the Contract, whichever is later, and shall be subject to continued and timely performance from the Buyer.
- 11.2** In the event of a delay in the supply of the Goods or Services, which is solely attributable to the fault of Howden, Howden shall be liable to pay liquidated damages in a sum equal to half of one percent (0.5%) of the value of the delayed Goods or Services per week, subject to a maximum of five percent (5%) of the value of the delayed Goods or Services. Such liquidated damages shall be the Buyer's sole and exclusive remedy in the event of Howden's delay.
- 11.3** If Howden is delayed in its performance of the Contract, which is solely attributable to the fault of the Buyer, the Buyer's agent and/or other contractors, Howden is entitled to receive payment at the time Howden was originally scheduled to be paid notwithstanding the delay. Any shipments held or delayed beyond the scheduled delivery date at the request or fault of the Buyer may be invoiced to the Buyer immediately including all reasonable expenses incident to such delay, and the Buyer shall assume the risk of loss thereof.

### 12. SERVICE PROVISIONS

- 12.1** Unless otherwise agreed, the following provisions shall apply where the Contract includes supervision by Howden's engineers of erection, installation and/or commissioning at site as specified in the Contract:
- (a) Buyer shall be responsible for furnishing all fully qualified labour, equipment, materials, tools and supplies for implementation of such Services required;
  - (b) Howden's sole responsibility in providing Services shall be to provide suitably qualified supervisor(s) who shall give the Buyer the benefit of their technical expertise with the Goods or similar installations and who shall advise the Buyer's personnel as to the installation in an efficient manner. It shall be the Buyer's sole responsibility to carry out installation and to achieve the desired work schedules, timescales and quality of workmanship for installation using appropriately qualified workmen in sufficient numbers to achieve the task;
  - (c) Howden shall not be responsible for any overruns in the work programme and the Buyer shall not be entitled to instruct Howden's supervisor(s) to undertake any work in addition to supervision, whether or not necessary to achieve such programme; and
  - (d) If the work is suspended by the Buyer or for any reason beyond Howden's control for more than two (2) working days Howden shall be entitled to withdraw its supervisor(s) from site. If the Buyer requires Howden's attendance on site thereafter, the Buyer will pay the supervisor(s) return travel fares (business class) and any other reasonable costs Howden incurs due to the withdrawal from, and the return to, site.
- 12.2** Unless specified in the Contract, Howden is only the supplier of the Goods and shall have no responsibility for the assembly and/or installation of the Goods.
- 12.3** For all Services provided by Howden, the Buyer agrees to the following:
- (a) Where the site is offshore or otherwise inaccessible or is located overseas, provide all necessary transportation facilities to and from site;
  - (b) Obtain all necessary statutory and other consents, approvals, licences and permissions for Services, for the work to proceed, and for Howden personnel to travel to and from the site;
  - (c) Provide all health, welfare and security facilities (including, but not limited to, medical, messing, accommodation, toilet and like facilities as appropriate) as required by law and otherwise reasonably necessary for personnel working on site; and
  - (d) Provide any necessary office, telephone and like facilities on site.
- 12.4** The Buyer shall indemnify Howden against any loss, damage or injury including death suffered by the person or property of Howden, its subcontractor, the Buyer, or respective personnel or any third party and against any claims, liability, costs or expenses associated therewith or arising out of the Buyer's performance or the Buyer's failure to perform or otherwise, except as expressly provided under clause 17.1, including, but not limited to, that which was caused by faulty lifting tackle, scaffolding, equipment and/or other facilities provided by the Buyer.
- 12.5** Howden's on site personnel, subcontractors and/or representatives shall be given unobstructed access to the site and the work as required. If there are delays caused by anyone other than Howden, the time and expense of the same shall be charged to the Buyer.
- 12.6** Howden is an independent contractor and is not responsible for any oversight, for completion of the work, or the property or employees of the Buyer or others, including, without limitation, matters such as health and safety, or security.
- 12.7** Howden shall comply with all provincial/territorial/state statutes, acts, ordinances, regulations, codes, and laws that apply to Howden's performance of the Services. Howden shall comply with job/site requirements as mutually agreed upon by the parties in writing and in advance of any Services commencing.



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- 12.8** The Buyer shall advise Howden's personnel in advance of all known and/or suspected hazardous/unsafe conditions and risks that may be encountered while on-site, including providing proper Material Safety Data Sheets (MSDS). Howden's personnel shall not be required to take any action or to enter or remain in any area where Howden reasonably determines that it would be unsafe. Furthermore, if Howden has substantive travel and/or security concerns regarding the Buyer's site, general region and/or country, Howden shall be excused from site attendance and the event will be considered a Force Majeure.
- 12.9** The maximum continuous period during which any Howden personnel shall attend a Buyer's premises will comply with all relevant labour and tax laws and regulations. If any Howden personnel reaches the maximum period permitted under such laws, Howden shall use its best endeavours to provide an adequate replacement on the same conditions to ensure that the Services continue uninterrupted. Travelling and other additional expenses incurred in connection with such replacement shall be payable by the Buyer.
- 12.10** Any associated Goods shall be considered accepted at the earlier of:
- (a) When Services are complete and the Goods have completed such tests as specified in the Contract or otherwise are to Howden's reasonable satisfaction; or
  - (b) Forty five (45) days after the Goods have been delivered by Howden, although not installed or successfully commissioned or tested due to reasons attributable to the Buyer, industrial action or anything beyond Howden's reasonable control.
- Goods acceptance shall not be delayed due to additions, minor omissions or defects that do not materially affect the use of the Goods. The Buyer shall sign Howden's acceptance certificate upon request.
- 13. SUSPENSION**
- 13.1** The Buyer shall have the right to suspend the Contract. Upon resumption of performance, Howden has the right to equitable relief as necessary in accordance with clause 9.
- 13.2** If the suspension period should exceed thirty (30) days, Howden has the right to consider the Contract terminated for convenience and be compensated in accordance with clause 14.1.
- 14. TERMINATION**
- 14.1** Buyer may terminate this Contract, in whole or in part, upon at least seven (7) calendar days advanced written notice to Howden. In the event of termination for Buyer's convenience, Howden shall be reimbursed for the reasonable Direct Costs incurred by Howden in performing the Contract until termination and for its costs in effecting such termination, notwithstanding any other provision of the Contract.
- 14.2** If Howden fails to cure a material breach within a reasonable time after receipt of notice of the breach from Buyer, and on Howden's acceptance of such breach, Buyer shall have the right, at its option, to terminate the Contract upon payment to Howden for work performed until the time of termination.
- 14.3** Any Goods or Services sold by Howden that are incomplete shall be deemed sold 'AS-IS' and without warranty or guarantee of any kind.
- 15. WARRANTY**
- 15.1** Howden warrants that: (i) any Goods provided hereunder will be of good material and workmanship; (ii) any Services provided by Howden shall be performed by competent and qualified personnel in a professional and workmanlike manner in accordance with generally established industry standards; and (iii) the Goods and/or Services supplied by Howden hereunder will conform to any applicable technical specifications and/or drawings that have been agreed upon between the parties in writing.
- 15.2** In the event that defects appear in the Goods under proper use, Buyer's sole and exclusive remedy thereof shall be that Howden will repair or replace, such Goods at Howden's option and cost (excluding transportation, removal, reinstallation and/or decontamination costs if so necessary) within the warranty period set forth:  
Unless otherwise expressly agreed, the warranty for Goods shall be whichever period expires earlier: (i) twelve (12) months from first operation of any such Goods; or (ii) eighteen (18) months from Howden's delivery date (at the applicable Incoterms point of delivery quoted by Howden).
- 15.3** Howden's warranty on any Services performed by Howden will be in effect until ninety (90) days after the date of the performance of any such Services. The Buyer's sole and exclusive remedy for breach thereof shall be the reperformance of such Services by Howden.
- 15.4** Howden's warranty shall exclude liability for defects arising from: (i) installation, commissioning and/or operation, not in accordance with Howden's O&M manual or good industry practice; (ii) use of unapproved spares, unauthorized modification or alteration of the Goods; (iii) normal wear and tear; (iv) the failure of Buyer and/or the end-user to provide adequate storage; or (v) use of the equipment otherwise than in accordance with the agreed operational parameters (including composition, pressure and temperature of the feed gas). No part shall be deemed defective by reason of its failure to resist fouling and the action of erosive or corrosive gases.
- 15.5** Any warranty repair or replacement of Goods or re-performance of Services shall be warranted by Howden for the remainder of the original warranty period.
- 15.6** Howden shall have the sole right to specify the manner and timeframe for such repair/replacement/re-performance of any Goods and/Services. Any defective/non-conforming Goods must be returned to Howden free of all contaminants and, in the event of replacement, will become the property of Howden unless Howden instructs otherwise. If Howden opts to perform any warranty obligations in-place, Buyer shall, without cost to Howden, during a specified time period agreed upon by the parties in writing, provide access by disassembling, removing, replacing, and reinstalling any equipment, structures, or other obstructions to the extent necessary to permit Howden to perform its warranty obligations.
- 15.7.** The warranties set forth in this Contract are exclusive and lieu of all other warranties and guarantees (including any warranty of merchantability or fitness for use for the purpose intended).
- 16. HOWDEN UPTIME**
- 16.1** For Goods equipped with Howden Uptime Hardware as part of a digitally-enabled warranty offering provided by Howden, the Goods will be connected to the Howden Uptime Solution during commissioning of the Goods and will receive the benefit of the Howden Uptime Solution from: (i) completion of the calibration following connection of the Goods to the Howden Uptime Solution by Howden until (ii) the expiry of the warranty period under the Contract ("Digitally-Enabled Warranty Period"). The Howden Uptime Hardware shall remain the property solely of Howden and shall be deemed loaned to the Buyer for the purposes of the digitally-enabled warranty offering.

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- 16.2** The scope and specific features of the Howden Uptime Solution that will be made available to the Buyer will be agreed by the Parties in the Contract, and the Buyer shall agree to Howden's standard licence agreement for the Howden Uptime Solution to govern the Buyer's access to and use of the Howden Uptime Solution during the Digitally-Enabled Warranty Period.
- 16.3** If, upon expiry of the Digitally-Enabled Warranty Period, the Buyer does not wish to continue to receive the benefit of the Howden Uptime Solution, it shall make the Howden Uptime Solution available to Howden personnel for the purposes of taking the Howden Uptime Solution offline and removal of the Howden Uptime Hardware from the Goods by Howden personnel.
- 17. LIABILITY FOR ACCIDENTS AND DAMAGE**
- 17.1** Howden will indemnify Buyer from non-nuclear claims brought by third parties against Buyer for (i) bodily injury (including death) and (ii) property damage, each only to the extent directly caused by the Gross Negligence of Howden, Howden's subcontractors or agents while working on site, but not otherwise by making good such damage to property or compensating personal injury.
- 18. INSURANCE**
- 18.1** Howden will maintain the following insurance coverage: (1) Public and Products Liability with a limit of one million pounds (£1,000,000) in the aggregate; and (2) Employers' liability or Workers' compensation as required by applicable law. Howden shall have no further obligations related to insurance coverage.
- 19. LIMITATION OF LIABILITY AND EXCLUSION OF CONSEQUENTIAL DAMAGES**
- 19.1** Notwithstanding anything to the contrary contained herein or elsewhere in the Contract and save to the extent this limitation is prohibited by law:
- (a) Howden's total liability pursuant to this Contract whether by way of indemnity, for breach of Contract, warranty or guarantee obligations or by reason of any tort, statute or otherwise shall in no event exceed the Contract Price.
- (b) Howden shall not be liable to Buyer, end-user or any third party, for any indirect, punitive or consequential damages of any kind or nature whatsoever, or for loss of profits/revenue or loss of production, regardless of whether such damages are based upon Contract, tort, strict liability in tort, negligence or indemnity.
- This clause shall survive any termination, default, cancellation or any other discontinuance of this Contract.
- 20. INTELLECTUAL PROPERTY**
- 20.1** Howden will indemnify the Buyer against any claim for infringement of copyright, letters patent, registered design or trade mark (published at the date of the Contract) by the use or sale of any article or material supplied by Howden to the Buyer and against all costs and damages which the Buyer may incur in any action for such infringement or for which the Buyer may become liable in any such action. This indemnity shall not apply to any infringement which is due to: (i) Howden having followed a design, process or instruction furnished or given by the Buyer; (ii) the use of such article or material in a manner, or for a purpose, or in a country, not specified or disclosed to Howden; or (iii) the use of such article or material in association or combination with any other article or material not supplied by Howden. The Buyer warrants that any design or instruction furnished or given by the Buyer shall not cause Howden to infringe any copyright, letters patent, registered design or trade mark in the execution of the Contract.
- 20.2** In the event it is determined that there is an infringement for which Howden is responsible, Howden shall, at its sole discretion, either (i) procure the right for the Buyer to continue to operate the Goods; (ii) modify or replace the infringing Goods with Goods that do not infringe; or (iii) refund the purchase price of the affected Goods.
- 20.3** All patents, copyright and other intellectual property rights in or relating to the Goods or their design or the specifications, drawings, manuals or information prepared or supplied by Howden, or which arise under or in the course of Howden's performance of the Contract, are, shall be and shall remain Howden's absolute property and shall not be used or reproduced without Howden's consent in writing. Howden shall grant the Buyer a royalty free licence to use such intellectual property rights for the sole purpose of operating and maintaining the Goods.
- 20.4** Notwithstanding any other provisions or requirements of this Contract, except as set out in clause 20.3, no intellectual property or proprietary information is being sold, granted, transferred, licensed, or assigned. There are no works-made-for-hire or unrestricted use (any government rights shall be "limited rights").
- 20.5** The Buyer shall not reverse engineer or otherwise attempt to recreate the Goods/Services.
- 21. CONFIDENTIALITY**
- 21.1** Any specifications, drawings, manuals, information or particulars supplied with Howden's tender or under the Contract are supplied by Howden in confidence. They shall not be used by the Buyer except for the purposes of the Contract and for the proper use of the Goods and shall not be disclosed by the Buyer to any third party (except the Buyer's employees having a need to know for the aforesaid purposes) for any other purpose whatsoever without Howden's prior written agreement. The foregoing shall not apply to information which is or becomes public knowledge without fault or failure by the Buyer or its employees.
- 22. NO HAZARDOUS SUBSTANCES**
- 22.1** Howden warrants to the Buyer that no Hazardous Substance will be used or is contained in the manufacture and supply of the Goods. For the purpose of the clause, a "Hazardous Substance" means asbestos or any material containing asbestos that is capable of causing harm to the natural and man-made environment including all or any of the following media: air (including air within buildings and other natural or man-made structures above or below the ground), water, land, and any ecological systems and living organisms (including man) supported by those media, and in the case of people, this includes offence caused to any of their senses or harm to their property.
- 23. EXPORT CONTROL**
- 23.1** The Buyer agrees that it will not participate directly or indirectly in the sale, resale, export, transfer or disposal of Howden products or technology ("Products") to any entity, to the Russian Federation, Belarus or to any other country in breach of applicable export control and sanctions laws including but not limited to those of the US, the EU, member states of the EU or the United Kingdom (together "Export Control and Sanctions Rules") and the Buyer will not sell, resell, export, transfer, dispose or otherwise deal with the Products to any country, destination or person without first obtaining any required export licence or other governmental approval, and completing such formalities as may be required by Export Control and Sanctions Rules. The Buyer shall (i) undertake its best efforts to ensure that the purpose of this clause is not frustrated by any third parties further down the commercial chain, including by possible resellers and (ii) set-up and maintain an adequate monitoring mechanism to detect conduct by any third parties further down the



commercial chain, including possible resellers, that would frustrate the purpose of this clause. The Buyer shall immediately inform Howden about any problems in complying with this clause or applying obligations (i) and (ii) detailed above, including any relevant activities by third parties that could frustrate the purpose of this clause, and shall make available to Howden information concerning compliance stated herein within five (5) business days of the request of such information. The Buyer shall not put the Products in their entirety or in part to any use in connection with any prohibited or illicit end use including, but not limited to, use in nuclear, chemical or biological weapons, rocket, or missile applications. Upon Howden's request, the Buyer shall provide information in response to any reasonable request (including a written certification) regarding compliance with applicable laws, rules or regulations and/or in connection with any applications made by Howden to the authorities in connection with the export or supply of the Products. Failure by the Buyer to comply with the terms of this clause shall constitute a material breach of the Contract and Howden shall be entitled to seek appropriate remedies, including, but not limited to: (i) termination of the Contract, and (ii) reimbursement of and indemnification for all fines, penalties, costs, damages, claims, liabilities, losses, settlements, lawsuits, actions and expenses due to Buyer's violation of this clause. Howden reserve the right to refuse to enter into or to perform any order, to cancel any order, or to void any warranty concerning the Products, if Howden determines, at its sole discretion, that the entry into such order or the performance of the transaction to which such order relates would be unlawful or be at risk of prohibition by any Export Control and Sanctions Rules. Howden shall be excused from performance, and not be liable for damages or costs of any kind including, but not limited to, liquidated damages and/or penalties for late delivery, for failure to deliver or delay in delivering the Products, or for delay or refusal to repair or replace under any warranty, resulting from Howden's exercise of its rights pursuant to this clause.

**23.2** Buyer warrants that it or any ultimate end user does not intend to use the Goods and/or Services in an atomic/nuclear installation or activity. If such use is intended, Buyer shall notify Howden before entering into any Contract with Howden and shall agree to standard nuclear indemnity obligations related thereto. Any breach of this warranty shall release Howden from performance and liabilities of any nature under the Contract and obligate Buyer to execute an amendment to the Contract incorporating such nuclear indemnity obligations prior to any performance by Howden.

## **24. FORCE MAJEURE**

**24.1** Neither party shall be considered in default or in breach of its obligations under the Contract to the extent that performance of such obligations is prevented or delayed by any circumstances outside its reasonable control including, without limitation: strikes, lock-outs or other industrial disputes, act of God, war, riot, civil commotion, malicious damage, compliance with any law or governmental order, rule, regulation or direction, embargoes, economic or trade sanctions, including any amendments to such embargoes, economic and/or trade sanctions, accidental breakdown of plant or machinery, fire, flood, storm, disease outbreak or epidemic and/or any resulting quarantine restrictions ("Force Majeure").

**24.2** Either party shall be entitled to terminate the Contract if the Force Majeure situation continues, or it is obvious that it will continue, for more than one hundred and eighty (180) days without liability to the other party. Notwithstanding the 180 day period being reached, should both parties want to continue the Contract, where reasonably practicable to do so, the parties will renegotiate in good faith to agree any necessary Contract amendment(s) in writing to allow the Contract to continue.

## **25. LAW AND JURISDICTION**

**25.1** The Contract shall in all respects operate and be construed as an English Contract governed by the laws of England and Wales.

**25.2** All notices and other communications and dealings between the parties including legal proceedings shall be in the English Language.

**25.3** If at any time a dispute should arise between the Buyer and Howden in relation to or in connection with the Contract, either party may give written notice to the other of the existence of such dispute and the same shall be referred to the arbitration of a person to be mutually agreed upon or, failing agreement within thirty (30) days of the receipt of written notice, such dispute shall be finally settled in accordance with the Arbitration Rules of the International Chamber of Commerce (ICC) without recourse to the ordinary courts of law. Arbitration to take place in London, England. The number of arbitrators is one. The language of the arbitration proceedings is English.

**25.4** The Uniform Law on the International Sale of Goods shall not apply to any Contract arising from any order placed under these conditions.

## **26. GENERAL**

**26.1** The Buyer agrees that it has a duty to mitigate damages and covenants that it will use commercially reasonable efforts to minimise any damages it may incur as a result of Howden's performance or non-performance of this Contract.

**26.2** Any duty to indemnify under this Contract is conditioned upon the Buyer: (i) making no statement prejudicial to Howden; (ii) providing prompt and detailed notice to Howden of any such claim; (iii) tendering the defence/settlement to Howden with sole control over the same; and (iv) providing full cooperation, authority and assistance to Howden.

**26.3** Buyer's rights and remedies shall be deemed sole, exclusive, and lieu of those otherwise available at law and/or equity.

**26.4** The exclusions and limitations set out in these terms and conditions shall prevail at all times and survive any breach or termination of the Contract.

**26.5** If any provision of this Contract or part thereof shall be held by judicial determination to be invalid or unenforceable they shall be severed from this Contract and the valid or enforceable parts of this Contract shall continue in full force and effect.

## **27. ENTIRE AGREEMENT**

**27.1** This Contract contains the entire understanding of the parties with respect to the subject matter hereof and supersedes any and all prior negotiations, contracts, commitments, and writings with respect thereto. There are no oral understandings, terms or conditions and neither party has relied upon any representation, express or implied, not contained in this Contract.

## **28. DATA PROTECTION**

**28.1** The personal data disclosed by a party under the course of the Contract does not belong to the recipient of such data. The data must be protected and shall not be disclosed to any third party, or altered, violated or used except for the purposes of the Contract. Either party may require the destruction of this data upon the end of the relationship between the parties. The parties undertake to comply with all applicable laws on the protection of personal data.