

**TERMS AND CONDITIONS OF SALE**  
**(Products and/or Services)**  
(revised June 25, 2019)

**1. General.** "Seller" means Atlas Copco IAS LLC. "Buyer" means the entity to which Seller's offer is made, or the entity purchasing any Product or Service from Seller. Seller and Buyer are sometimes referred to herein individually as a "Party" and collectively as the "Parties". "Product" means any product, equipment, accessory, part, and/or any other type of item offered or sold by Seller to Buyer. "Service" means any installation, start-up, maintenance, inspection, adjustment, repair, and/or any other type of service or work offered or performed by Seller for Buyer. This Terms and Conditions of Sale document is hereinafter referred to as these "Terms and Conditions of Sale". **SELLER'S SALE OF ANY PRODUCT AND/OR SERVICE IS EXPRESSLY CONDITIONED ON BUYER'S ASSENT TO THESE TERMS AND CONDITIONS OF SALE. ANY ACCEPTANCE OF SELLER'S OFFER IS EXPRESSLY LIMITED TO ACCEPTANCE OF THESE TERMS AND CONDITIONS OF SALE. ANY TERMS OR CONDITIONS (PREVIOUSLY, CONTEMPORANEOUSLY, OR HEREAFTER) PROVIDED BY BUYER WHICH ADD TO, VARY FROM, OR CONFLICT WITH THESE TERMS AND CONDITIONS OF SALE ARE HEREBY EXPRESSLY OBJECTED TO.** Any verbal or written order from Buyer to Seller shall constitute Buyer's assent to these Terms and Conditions of Sale. In the event a separate written agreement covering terms and conditions has been negotiated and mutually signed by authorized representatives of Buyer and Seller, and such agreement is applicable, it shall take precedence (to the extent of conflicts) and the terms and conditions set forth in these Terms and Conditions of Sale will be supplemental to those of such agreement. All orders submitted to Seller are received subject to approval or rejection by Seller at its U.S. headquarters.

**2. Order-related changes requested by Buyer.** Any and all order-related changes requested by Buyer (whether with respect to changes in drawings, designs, specifications, material, packing, time and place of delivery, mode of transportation, or otherwise) are subject to Seller's approval in writing. If any change causes an increase or decrease in the cost of, or the time required for, the performance of any part of the order, an equitable adjustment shall be made to the price and/or delivery schedule. Unless agreed otherwise by the parties in writing, pricing for work arising from such changes shall be at Seller's then-current applicable time and material rates/price.

**3. Delivery.** 3.1. Unless specifically agreed otherwise by Seller and Buyer in writing with respect to the particular Product ordered, Products manufactured, assembled or warehoused in the continental U.S. are delivered F.O.B. shipping point of origin, and Products shipped from outside the continental U.S. are delivered F.O.B. point of entry.

3.2. All lead-times and all shipping/delivery dates are approximate only, and are among other things dependent upon the Product factory's production schedule, and prompt receipt by Seller of all necessary information and approvals from Buyer. In no event will the indicated lead-time or shipping/delivery period begin to run prior to Seller's receipt of all necessary information, approvals and completion of all details deemed necessary by Seller for execution of the order. Seller reserves the right to deliver in installments. Notwithstanding any agreement with respect to delivery terms or payment of transportation charges, the risk of loss or damage shall pass to Buyer and delivery shall be deemed to be complete upon delivery to a private or common carrier or upon moving into storage, whichever occurs first, at the point of shipment for Products assembled, manufactured or warehoused in the continental U.S. or at the point of entry for Products shipped from outside the continental U.S.

**4. Buyer's Inspection.**

4.1. Buyer shall promptly inspect the goods upon their arrival at Buyer's facility (or Buyer's other designated shipping destination), and must notify Seller in writing within five (5) days of arrival if such goods are non-conforming. If no such notice is received by Seller within such time or if Buyer has begun to process or alter the goods in any manner, the goods shall be deemed irrevocably accepted and Buyer waives any right to revoke such acceptance. Buyer shall provide Seller the reasonable opportunity to inspect any alleged non-conforming goods. If such goods are actually non-conforming, Seller's sole liability and Buyer's exclusive remedy under this agreement are limited to, at Seller's option, credit for the non-conforming goods (up to the price allocable to the goods which are non-conforming) or the repair or replacement thereof. Buyer agrees that the inspection and remedy provisions herein are adequate and reasonable. Any attempted revocation of acceptance after the inspection period has passed will have no effect or, at the option of Seller, will constitute a breach by Buyer of this agreement.

4.2. If any goods to be sold to Buyer by Seller are manufactured, packaged, processed or otherwise handled by Seller in substantial compliance with the mutually agreed upon specifications, then Seller will not be liable to Buyer for the failure of such goods' performance, or for any of Buyer's damages (including incidental and consequential damages, and lost profits) arising from such failure, and Buyer will indemnify and hold Seller harmless from any third party suits, claims, damages, expenses (including attorneys' fees and court costs) or other liabilities arising from any such failure.

4.3. Standard Seller assemblies and consumable parts delivered to Buyer shall be eligible for return to Seller provided that such assemblies and parts are (i) unused, (ii) still contained in their original manufacturer's packaging, and (iii) received by Seller within 90 days after delivery thereof to Buyer, in each case as determined by Seller. No returned goods will be accepted without a Return Material Authorization number issued by Seller. Returned goods must include all accessories, packaging, instruments and other related materials; otherwise credit will not be granted for any goods returned. Any such returns are subject to a 30% restocking fee. For the avoidance of doubt, any delivery of conforming goods other than standard assemblies and consumable parts (including, but not limited to, rivets and custom engineered or custom designed goods) are not returnable by Buyer.

**5. Price, Payment.** Seller's price in effect at the time of shipment shall apply. Unless specified otherwise in Seller's written quotation, prices are F.O.B. shipping point of origin and expressly do not include tax, packaging, loading, freight, unloading, transport insurance, assembly, customs, installation, start-up, training, maintenance, travel costs, and/or other expenditures. Unless other payment terms are specified by Seller in writing, the payment terms are Net 30 days after Seller's invoice date. Invoices shall be paid in full and Buyer shall not be entitled to set-off or to withhold payment. If Buyer fails to pay any invoice when due, Seller may defer deliveries under this or any other contract with Buyer or require receipt of satisfactory security for or cash in payment of any such invoice. Buyer's failure to pay invoices when due shall (at the option of Seller) constitute a default, and Seller shall have all remedies Seller may have under these Terms and Conditions of Sale and/or applicable law. If, in the judgment of Seller, the financial condition of Buyer at any time prior to delivery does not justify the terms of payment specified, Seller may require payment in advance or cancel any outstanding order, whereupon Seller shall be entitled to receive reasonable cancellation charges. Seller reserves the right to charge late fees on overdue amounts at a rate of 1.5% (one and a half percent) per month or the rate permitted by law, whichever is lower. In the event Seller reasonably incurs any expense for collection of any

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overdue amounts owed by Buyer, Seller reserves the right to add reasonable collection charges (including attorneys' fees) to the balance due and Buyer shall pay all such charges. Any and all export shipments by Seller are subject to Buyer arranging for an irrevocable Letter of Credit in favor of Seller from a recognized United States bank. Should the order fall in a category that requires progress payments, the Letter of Credit shall be arranged to release payment in accordance with the agreed payment schedule. It is expressly understood and agreed that all Letters of Credit shall: (a) be acceptable to Seller; (b) be maintained in sufficient amounts and for the period necessary to meet all payment obligations; (c) be irrevocable; and (d) be issued or confirmed by a financial institution acceptable to Seller.

**6. Taxes.** Taxes are not included in the price, unless the price indicated by Seller specifically lists such tax as a line item. Buyer is responsible for any and all applicable taxes (except any taxes on Seller's income). If sales tax, use tax, or similar taxes in addition to any listed specifically as part of the stated purchase price are imposed upon Seller, Buyer agrees to pay the same or reimburse Seller. Seller will accept a valid exemption certificate from Buyer, if applicable.

**7. Security Interest.** Seller reserves and retains a security interest in the Product and the proceeds thereof until Buyer has paid Seller the full price. Seller shall have the rights and remedies of a secured party under the Uniform Commercial Code. Buyer authorizes Seller to file financing statements and to do any other act or thing necessary or useful in perfecting Seller's security interest in the Product, and agrees to execute any and all documents required to be executed on its part to perfect said security interest.

**8. Cancellation/Termination.** The circumstances under which the order may be terminated shall be as follows:

8.1. Each party has the right to terminate the order in whole or in part in writing with immediate effect if the other party becomes insolvent, makes a general assignment for the benefit of creditors, suffers or permits the appointment of a receiver for its business or assets, becomes subject to any proceeding under any bankruptcy or insolvency law, or has wound up or liquidated (voluntarily or otherwise). In addition, each party has the right to terminate the order in whole or in part in the event of a breach if the other party fails, within 15 business days after receipt of written notice from the non-breaching party specifying the material breach and intent to terminate, to commence and diligently pursue cure of the breach.

8.2. Unless an order is terminated by Buyer pursuant to sub-section a above, Buyer shall pay Seller's termination charges if Buyer terminates an order, or any portion thereof, that has not already been delivered. The termination charges shall be as follows: (i) standard Seller assemblies are subject to 30% cancellation fees, (ii) manufactured parts, engineering, assembly and test labor are subject to charges for Seller cost (including costs owed to third parties) plus 20%, (iii) non-returnable / non-refundable items are subject to full price of goods, and (iv) non-standard OEM components, if returnable, are subject to a 30% return fee (if not returnable, full cost absorption may include, among other things, all costs and expenses incurred, and to cover commitments made, by Seller). In no event shall the termination fee exceed the Product's purchase price.

8.3. It is acknowledged that Seller may suspend Seller's performance in whole or in part immediately if Buyer fails to meet the payment terms set forth above.

8.4 Buyer's recourse in the event of a default by Seller shall be limited to the termination of any Purchase Order affected by such default. Cover or damages for such default shall not be available to Buyer.

**9. Returns.** Buyer shall have no right to return any Product unless Seller, in its sole discretion, agrees in writing that the specific Product may be returned. If Seller agrees that Buyer may return the Product, Seller will issue a Return Material Authorization number to Buyer, and Buyer must include such Return Material Authorization number with the return. All such returns must be in accordance with Seller's instructions (including but not limited with respect to condition of the Product, shipping, and re-stocking fees, if applicable).

**10. Scope of Service.** 10.1. Unless specifically agreed upon by Seller and Buyer in writing, Seller will not perform installation, startup, maintenance, training or any other Service. Any and all Service to be performed by Seller shall be scheduled and confirmed with Seller's service department. Seller's performance of Service is subject to Seller's normal working hours (8:30 am to 5:00 pm, Monday through Friday excluding public holidays), unless expressly agreed otherwise. If any forklift, crane, and/or other lifting or rigging equipment or lighting equipment is necessary (as reasonably determined by Seller's service technician) for Seller to perform Service on Buyer's premises, Buyer shall supply such equipment at its own expense together with sufficiently skilled and qualified labor in connection therewith, unless expressly agreed otherwise. If Seller will provide any Service, the scope of work of the Service is limited to the agreed-upon service activities specified in Seller's written service quotation and any changes thereto mutually agreed between Buyer and Seller in writing. Only the agreed-upon Product or other equipment identified by serial number (or by another agreed-upon method of identification) in Seller's written quotation is included in the scope of work of such Service.

10.2. It is expressly understood and agreed that the Service (if any) to be provided by Seller is ancillary to, and not a substitute for, Buyer's full compliance with the Product's/equipment's manual (including but not limited with respect to daily and weekly inspection/maintenance), accompanying labels, inserts and other applicable documents by the manufacturer in addition to specific recommendations (if any) to Buyer by Seller's Service technician. For example, if Seller will provide preventative maintenance, such service is not a substitute for Buyer's compliance with any daily or weekly or other routine maintenance instructions contained in the Product's/equipment's manual.

10.3. In the event the Service (if any) to be provided by Seller entails Service obligations over a period of time (whether under a maintenance program or otherwise), it is expressly understood and agreed that such Service does not include (a) services, parts, or repairs required as a result of modification or repair by anyone other than Seller's personnel; (b) service, parts, or repairs required as a result of improper installation, improper storage, improper use, or improper maintenance by anyone other than Seller's personnel; (c) repair of damages caused by external factors, including, but not limited to: loss or damage resulting from the elements, misuse, abuse, or the operation of the Product/equipment in improper operating environments, including, but not limited to, locations having defective or inadequate power sources, static electricity, or excessive interference caused by external sources; (d) consumable items (unless the consumable item is specifically included in Seller's written quotation).

**11. Warranty.** 11.1. Equipment (excluding rivets and parts): Seller warrants that any and all equipment (excluding rivets and parts) delivered by Seller under this order are delivered free of defects in material and workmanship. Unless specified otherwise by Seller in its written quotation regarding such particular equipment, the above-stated warranty shall expire twelve (12) months after the date of delivery from Seller to Buyer.

11.2. Parts (excluding rivets and consumable parts): If Seller provides parts (excluding rivets and consumable parts (such as wearables parts as belts, hoses, tips, extensions, bearings, and seals, ("Consumable Parts")), Seller warrants that the parts shall be free of defects in material and workmanship; this warranty shall expire ninety (90) days after the date Seller provides

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such part, unless specified otherwise by Seller in its applicable written quotation.

11.3. Service: Seller warrants that any and all services will be performed in a workmanlike manner; this warranty shall expire 30 days after the service is performed.

11.4. Available Remedies: If equipment, parts or service do not meet the above-stated warranty, Buyer shall promptly within the applicable above-stated warranty period notify Seller in writing. In the event of a breach of warranty with respect to equipment or parts (other than rivets), Seller shall at its option (i) replace the defective equipment or part; (ii) repair the defective equipment or part; or (iii) take back the defective equipment or part and refund (or credit) monies paid by Buyer to Seller for the defective equipment or part less a reasonable allowance for use. In the event of a breach of warranty with respect to service, Seller shall at its option (i) re-perform the non-conforming portion of the service, or (ii) provide a refund or credit allocable to the nonconforming portion of the service. Seller will determine in its sole discretion which of the above-mentioned options (re-performance, repair, replacement, refund, or credit) Seller will take. Seller warrants that such equipment and parts repaired or replaced pursuant to the above warranty, and such re-performed service, shall (under normal and proper use, storage, handling, installation, and maintenance) be free of defects in material or workmanship; this warranty shall expire upon the expiration of the original warranty period for the applicable equipment, part or service.

11.5. General: Any and all warranty work is subject to Seller's normal working hours (8:00 am to 5:00 pm Monday through Friday, exclusive of holidays), unless the parties agree otherwise in writing. In the event labor for warranty work is performed outside of Seller's normal working hours, that labor will be billed at Seller's overtime rate then prevailing for services of Seller personnel. Replaced equipment and parts become the property of Seller. Seller warrants that Seller has good and marketable title to the products delivered by Seller.

11.6. Rivets and Consumable Parts: Seller makes no warranty with respect to rivets or Consumable Parts sold to Buyer except that, at the time of delivery, (i) the rivets and Consumable Parts conform materially to the specifications agreed to in writing by Buyer and Seller and (ii) that Seller has good and marketable title to the rivets and Consumable Parts delivered by Seller. Notification of any breach of this rivet and Consumable Parts warranty must be received within the 5 day acceptance period referred to in Section 4.1 above, but in any event prior to such rivets or Consumable Parts being applied to other materials or in any way altered by Buyer or any third party.

11.7. The warranties set forth in this Section 11 expressly exclude any defects attributable to the non-observance of operating, service or installation instructions, to inappropriate or unsuitable use, to incorrect or careless treatment, to normal wear and tear, or to modification of the supplied goods by Buyer or any third party. **THE FOREGOING WARRANTIES ARE EXCLUSIVE AND ARE GIVEN AND ACCEPTED IN LIEU OF ANY AND ALL OTHER WARRANTIES, WRITTEN, ORAL, IMPLIED OR OTHERWISE, AND ALL OTHER WARRANTIES, INCLUDING WITHOUT LIMITATION, THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE ARE HEREBY EXPRESSLY DISCLAIMED. THE REMEDIES OF BUYER SHALL BE LIMITED TO THOSE PROVIDED HEREIN TO THE EXCLUSION OF ANY AND ALL OTHER REMEDIES, INCLUDING WITHOUT LIMITATION, INCIDENTAL OR CONSEQUENTIAL DAMAGES OR LOST PROFITS.**

12. Software. In the event the Product and/or Service contains or otherwise includes software, the software shall remain the proprietary property of Seller (and/or its affiliates or other third parties who are Seller's licensors, if

applicable), and in no event shall title thereto be sold or transferred to Buyer. In the event a Product and/or Service supplied hereunder contains or otherwise includes software, the following shall apply: (i) subject to Buyer complying with these Terms and Conditions of Sale, Buyer is granted a non-exclusive, non-transferable license to properly use the software in machine readable object code form only; (ii) any license so granted is limited to the proper use of the Product/Service containing the software only in the manner authorized by Seller; and (iii) Buyer shall not sublicense the software to any other entity nor assign its license rights. Notwithstanding the above, in the event Buyer transfers (in compliance with any and all applicable laws and regulations) title to any Product containing the software, the license granted hereby shall transfer to Buyer's transferee. Any license granted hereunder shall continue: (i) until terminated in accordance with this agreement, or, (ii) for the useful life of the Product/Service in which the software is embedded or is otherwise an integral part, or, (iii) for the useful life of the software, whichever is shorter. Any modification, alteration, or removal or unauthorized use of any software contained in any Product/Service constitute a breach of this agreement and shall automatically terminate any license granted hereby. Buyer shall not (and shall not permit any third party to) create derivative works based on the software, or reverse engineer, or disassemble or decompile the software, or transfer, copy, or modify, the software. In the event a separate written applicable Seller-provided Software License is provided with the Product/Service, specified in Seller's quotation, and/or otherwise communicated to Buyer, then the software shall be governed, in order of precedence, by the terms of the separate Software License and then by any non-conflicting terms hereof.

13. Intellectual Property. No patents, copyrights, trademarks, or other intellectual property is being sold, assigned, or otherwise transferred to Buyer. It is expressly acknowledged that Seller retains all right, title and interest in and to all inventions, discoveries, ideas, works of authorship, processes, methods, know-how, and techniques developed, discovered or conceived by Seller or its employees, including without limitation those developed and/or used in connection with the manufacture of Products or performing Services hereunder. No drawings, designs, specifications, or anything else provided by Seller shall be deemed to be "work made for hire" as that term is used in connection with the U.S. Copyright Act.

14. Buyer's Indemnity. Buyer shall indemnify, defend and hold harmless Seller and its officers, directors, employees, subcontractors and agents, and their respective successors and assigns, from any losses, costs, damages, expenses, lawsuits, claims or liability (including attorneys' fees and court costs), by reason of monetary losses, property damage or personal injury (including death), or otherwise, including, without limitation, incidental and consequential damages and lost profits, claimed by Buyer or any third party arising out of, in connection with, or as a result of, Buyer's (or any third party's) use of any goods or services provided by Seller to Buyer, whether arising out of the actions or inactions of Buyer or of its employees, agents or subcontractors.

15. Confidentiality. Each Party (as to information disclosed, the "Disclosing Party") may disclose Confidential Information to the other Party (the "Receiving Party") in connection with this order/contract and/or performance hereunder. "Confidential Information" means information related to the business, products, or services of the Disclosing Party that is not generally known to the public. The Receiving Party agrees: (i) to use the Confidential Information only as the Disclosing Party intended it to be used by the Receiving Party in connection with the order/contract, and (ii) to take reasonable measures to prevent disclosure of the Confidential Information to third parties. Upon the Disclosing Party's request, the Receiving Party shall destroy or return to Disclosing Party all copies of Confidential Information. The obligations of this Section 15 shall not apply to any portion of the Confidential Information that: (i) is or becomes generally available to the public other than as a result of disclosure by the Receiving Party, its representatives or affiliates, (ii) is independently



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developed by the Receiving Party, its representatives or affiliates, without reference to or use of the Confidential Information, (iii) is or becomes available to the Receiving Party on a non-confidential basis from a source other than the Disclosing Party when the source is not, to the best of the Receiving Party's knowledge, subject to a confidentiality obligation to the Disclosing Party; or (iv) is required to be disclosed by valid legal process or law provided that the Receiving Party who intends to make such disclosure shall promptly notify the Disclosing Party prior to such disclosure and shall reasonably cooperate in attempts to maintain the confidentiality of the Confidential Information. It is expressly agreed that this Section 15 survives any expiration/termination of the order/contract.

**16. Tooling.** Any and all tooling, fixtures, dies, molds, patterns and other materials used by Seller (or, if applicable, an affiliate of Seller who manufactures the Product) to produce the Products are and shall remain the property of Seller (or of Seller's affiliate, if applicable). Seller is not selling any such tooling, fixtures, dies, molds, patterns, etc. to Buyer. Buyer is not providing Seller any such tooling, fixtures, dies, molds, patterns, etc., unless specifically agreed by the parties in writing signed by hand by authorized managers of the parties (in which case Buyer will retain any ownership rights Buyer has in the items provided to Seller).

**17. Export Control, and Foreign Corrupt Practices Act.** Products, Services, technical data, technology, software, and any other items or information provided by Seller to Buyer shall at all times be subject to any and all applicable export control laws and regulations, including but not limited to applicable U.S. Export Administration Regulations, United Nations resolutions and European Union directives relating to trade embargoes and restrictions. Buyer expressly agrees that no Product, Services, technical data, technology, software or other items or information or assistance or other item received from Seller shall be exported (or re-exported) by Buyer or its authorized transferees (if any), directly or indirectly, in violation of any law or regulation. Buyer further agrees that Buyer shall neither violate nor cause Seller to violate the U.S. Foreign Corrupt Practices Act of 1977 (as amended), in connection with any sale or distribution of the Products and/or Services. Buyer agrees to indemnify Seller from any and all costs, liabilities, penalties, sanctions, and fines arising from Buyer's non-compliance with this Section 17.

**18. Force Majeure.** Buyer acknowledges that the goods called for hereunder are to be manufactured by or for Seller to fulfill this order and that the delivery dates are based on the assumption that there will be no delay due to causes beyond the reasonable control of Seller. Seller shall not bear any liability for delay, non-delivery or other non-performance when due to delays of suppliers, supply shortages, material price increases for raw materials or components of the goods, acts of God or the public enemy, compliance in good faith with any applicable foreign or domestic governmental law, regulation or order whether or not it proves to be valid, fires, floods, explosion, riots, war, acts of terrorism, labor disputes, strikes, unusually severe weather or any other cause beyond the reasonable control of Seller. To the extent that such causes actually delay the performance on the part of Seller, the term for the performance shall be extended for as many days beyond the date thereof as it required to obtain removal of such causes.

**19. LIMITATION OF LIABILITY. NOTWITHSTANDING ANYTHING ELSE, THE TOTAL LIABILITY OF SELLER IN THE AGGREGATE (ARISING OUT OF OR RELATED TO THE PRODUCTS, SERVICE, CONTRACT, AND/OR BREACH OR PERFORMANCE OF CONTRACT) SHALL BE LIMITED TO THE ACTUAL PURCHASE PRICE AMOUNT RECEIVED BY SELLER FROM BUYER FOR THE PRODUCT/SERVICE INVOLVED IN THE CLAIM** (regardless of whether such damages are characterized as arising out of breach of warranty, tort, contract, or otherwise); however it is understood that nothing in this Section shall limit Seller's liability (if any) under applicable law for personal injury or liability that cannot be limited or excluded under applicable law. For purposes of this Section, the term

"Seller" means Seller, its affiliates, suppliers, and subcontractors, and their respective employees/agents.

**20. NO CONSEQUENTIAL DAMAGES, ETC. NOTWITHSTANDING ANYTHING ELSE, UNDER NO CIRCUMSTANCES SHALL SELLER BE LIABLE FOR ANY CONSEQUENTIAL, INDIRECT, INCIDENTAL, OR SPECIAL DAMAGES (INCLUDING BUT NOT LIMITED TO LOSS OF PROFITS OR REVENUE, LOSS OF TOTAL OR PARTIAL USE OF PRODUCTS OR SERVICES, DOWNTIME COSTS, AND DELAY COSTS), EVEN IF ADVISED OF THE POSSIBILITY OF SUCH DAMAGES OR IF SUCH DAMAGES ARE FORESEEABLE AND EVEN IF THE LIMITED REMEDIES PROVIDED HEREIN FAIL OF THEIR ESSENTIAL PURPOSE (regardless of whether such damages are characterized as arising out of breach of warranty, tort, contract, or otherwise). For purposes of this Section, the term "Seller" means Seller, its affiliates, suppliers, and subcontractors (if any), and their respective employees/agents.**

**21. U.S. Government Contracts.** If the Products and/or Service are to be used in the performance of a U.S. Government contract or subcontract, Buyer expressly agrees to notify Seller in writing in connection with Buyer's order. Further, if the Products and/or Service are to be used in the performance of a U.S. Government contract or subcontract, only those clauses of the applicable U.S. Government procurement regulations which are mandatorily required by federal statute to be included in this order/contract shall be incorporated herein by reference.

**22. Equal Employment Opportunity Requirements.** If applicable to this agreement, Seller and Buyer shall abide by the requirements of 41 CFR §§ 60-1.4(a), 60-300.5(a), and 60-741.5(a). These regulations prohibit discrimination against qualified individuals based on their status as protected veterans or individuals with disabilities, and prohibit discrimination against all individuals based on their race, color, religion, sex, sexual orientation, gender identity or national origin. Moreover, these regulations require that covered prime contractors and subcontractors take affirmative action to employ and advance in employment individuals without regard to race, color, religion, sex, sexual orientation, gender identity national origin, protected veteran status or disability.

**23. Miscellaneous.** 23.1. Typographical and/or clerical errors in Seller's quotations are subject to Seller's correction.

23.2. This agreement constitutes the entire agreement between the parties with respect to its subject matter. No modification of this agreement shall be binding unless in writing and signed by both parties.

23.3. Neither Party shall assign or transfer this order/contract without the prior written consent of the other Party (which consent shall not be unreasonably withheld); any purported assignment in violation of this sentence shall be void. Irrespective of the foregoing, Seller may without consent assign this order/contract (or any of rights or obligations hereunder) to any of its affiliates and/or use sub-contractors. Buyer acknowledges and agrees that Seller may subcontract with third parties for the performance of some or all of Seller's obligations hereunder.

23.4. If any term, provision, covenant or condition of this agreement is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remainder of the provisions shall remain in full force and effect and shall in no way be effected, impaired or invalidated.

23.5. Waiver by Seller of a breach by Buyer of any of the terms and conditions of this agreement shall not constitute a waiver of any other breach of the same or any other term.

23.6. The validity, performance, and all other matters arising out of, or relating to the interpretation or effect of this order/contract shall be governed

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by and construed in accordance with the internal laws of the State of Michigan without giving effect to any choice or conflict of law provision or rule (whether of Michigan or any other jurisdiction) that would cause the application of the laws of any jurisdiction other than those of Michigan. Any legal suit, action or proceeding and all other matters arising out of or relating to the interpretation and effect of this order/contract shall be instituted in the United States District Court for the Eastern District of Michigan, Southern Division, or the Oakland County, Michigan Circuit Court, and the parties hereby irrevocably consent to the personal jurisdiction and venue of those courts over the parties to this agreement. Notwithstanding the foregoing, Seller shall have the right at any time (at its option and where legally available) to immediately commence a legal suit, action, or proceeding in any court of competent jurisdiction (in any State or country) in order to seek an injunction or similar order to enforce or protect intellectual property rights or trade secrets, and/or to enforce the provisions of Section 5 above (entitled "Price, Payment").

23.7. Seller and Buyer expressly agree that the United Nations Convention on International Sale of Goods shall not apply.

23.8. 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.

23.9. All rights and obligations contained in these Terms and Conditions of Sale, 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.

23.10. Buyer agrees to sign and deliver all documents, instruments and certificates and take all other actions which may be deemed reasonably necessary by Seller to consummate the transactions contemplated by this agreement.

23.11. No action, regardless of form, arising out of this agreement shall be brought by Buyer more than one (1) year after such cause of action as occurred.

23.12. All rights and remedies of Seller herein shall be cumulative and none shall exclude any other rights or remedies available at law or in equity.

23.13. Buyer agrees that the goods shall be used only in strict accordance with the manufacturer's and/or Seller's manuals, instructions and other guidelines, and in compliance with all laws, orders, rules, regulations and requirements of public authorities.

**24. Trade Compliance.** Any quotation is legally binding upon Seller only after Buyer has received a written acceptance from Seller of any Buyer order based on that quotation. Seller can, at any point in time prior to such acceptance, withdraw its quotation. By placing an order, Buyer certifies 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. Furthermore, Buyer certifies that it will comply with applicable local and international foreign trade and customs requirements or any embargos or other sanctions. Buyer shall immediately notify Seller in writing of any breach of this statement. Seller shall not be obligated to fulfill a binding order or agreement or any part thereof or related to it, nor be liable for its non-fulfillment, if such fulfillment is prevented by any impediments arising out of applicable local and/or international foreign trade and customs requirements or any embargos or other sanctions. Seller shall have the right to terminate a binding order or agreement, or any part thereof or related to it, with immediate effect and without prior notice or liability, if fulfillment is prevented by any impediments arising out of applicable local or international foreign trade and customs requirements or any embargos or other sanctions. Buyer shall indemnify Seller for any direct or indirect damages arising in consequence of any breach of this statement.

Atlas Copco IAS LLC

Company Name

\_\_\_\_\_

By: \_\_\_\_\_

By: \_\_\_\_\_

Name, Title

Name, Title

Date: \_\_\_\_\_

Date: \_\_\_\_\_

**Industrial Assembly Solutions Division**

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