

Movement by Perfection



The Royal League in ventilation, control and drive technology

General Terms and Conditions of Purchase

January 2016

Please note that this is an English translation of the original German version. Both language versions shall have the same legal effect. In case of any conflict, the original German version shall prevail.



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General Terms and Conditions of Purchase of the ZIEHL-ABEGG SE

§ 1 General – Application

1. Only our General Terms and Conditions of Purchase shall apply; terms and conditions of the Supplier (hereinafter also referred to as the Vendor or the Contractor) which are either to the contrary or diverge from our Terms and Conditions of Purchase shall not be recognised by ZIEHL-ABEGG (hereinafter also referred to as the Purchaser or the Client) unless ZIEHL-ABEGG has explicitly consented to their application in writing.

The Terms and Conditions of Purchase shall likewise apply where the Supplier's delivery is accepted without reservation by ZIEHL-ABEGG in awareness of terms and conditions of the Supplier which are either to the contrary or diverge from our own Terms and Conditions of Purchase.

2. The Terms and Conditions of Purchase shall also apply to all future transactions with the Supplier.
3. The Terms and Conditions of Purchase shall solely apply vis-à-vis entrepreneurs within the meaning of § 14 German Civil Code.

§ 2 Orders

1. Orders shall only be valid where placed in writing, by telefax or by e-mail.

Every order placed must be confirmed by means of an order confirmation issued by the Supplier except where there is an explicit agreement regarding waiver of the requirement for the confirmation of orders. Where ZIEHL-ABEGG does not receive the above-mentioned confirmation of order within fourteen days from the date of ordering, ZIEHL-ABEGG shall reserve the right to cancel the order without obligation.

2. ZIEHL-ABEGG shall retain the property rights and copyright to all figures, drawings, calculations and other documents; same shall not be made accessible to third parties without our explicit consent. They shall be solely used for production on the basis of our order; following execution of the order they shall be automatically returned to ZIEHL-ABEGG. They shall be kept secret from third parties. Any right of retention to such documentation shall be excluded in all cases.
3. All quotations submitted by the Supplier as well as all associated activities shall be free of charge for ZIEHL-ABEGG.
4. The Supplier shall be obliged to maintain secrecy as regards all business and trade secrets of ZIEHL-ABEGG, whereby this shall also include all documents made available to the Supplier

by ZIEHL-ABEGG, in addition to other information forming the subject of communication. The obligation of secrecy shall also apply following performance of the present contract. A corresponding obligation shall be imposed in writing on any sub-suppliers and subcontractors. Should the Supplier establish that an item of confidential information has been acquired by an unauthorised third party or that a confidential document has been mislaid, he shall notify ZIEHL-ABEGG in writing at once. The Supplier shall be lastly obliged to likewise treat as confidential conclusion of the contract itself; references may only be named with our prior written consent.

5. ZIEHL-ABEGG shall also be at liberty to request changes to the subject of delivery following conclusion of the contract where this can be reasonably expected of the Supplier. In the event of such amendment to the contract due consideration must be given to the consequences for both parties, in particular as regards additional or reduced costs as well as the delivery dates.

§ 3 Prices, Shipment, Packaging, International Transport, International Trade Control

1. The agreed prices are fixed prices and shall exclude additional claims of whatever nature. Where prices are not specified in the purchase order, they shall be stated in the order confirmation with binding effect. In this case the contract shall not come into being until we have given our written consent to the prices.
2. Said prices shall include the costs of packaging and transport to the forwarding address specified by ourselves or the place of use as well as costs incurred for customs and clearing formalities. Delivery shall be effected Delivered Duty Paid (DDP), Incoterms@2010.
3. Our order number shall be stated on advices of shipment, bills of lading, invoices and all correspondence with ourselves. ZIEHL-ABEGG will only be able to process invoices where – as specified in our order – the order number shown therein is indicated in addition to any other information explicitly mentioned; the Supplier shall be accountable for all consequences ensuing from failure to comply with this obligation unless he is able to prove that he was not responsible in this regard.
4. ZIEHL-ABEGG shall only be obliged to take delivery of the quantities or piece numbers ordered by the company for a specific time of delivery. Deliveries which exceed or fall short of the specified quantity shall only be permitted where previously agreed with ourselves (normally in writing).

5. Shipment shall take place at the Supplier's risk. §§ 447 par.1, 644 par.2 German Civil Code are not applicable. The risk of any deterioration, including accidental perishing, shall thus remain with the Supplier until delivery to the forwarding address or forwarding office desired by ourselves. § 12 No. 2 of these General Terms and Conditions of Purchase apply with the regard to the place of fulfilment.
6. The Supplier's obligation to take back packaging shall be governed by the statutory provisions. Goods must be packaged in such a manner as to avoid any damage in transit. Packaging materials shall only be used to the extent that same are necessary to achieve this purpose. It shall only be permitted to make use of environmentally sustainable packaging and filling materials which do not impair recycling. Where we are separately charged for packaging by way of exception, ZIEHL-ABEGG shall be entitled to return said packagings carriage paid against reimbursement forming the subject of individual negotiation with the Supplier.
7. A delivery note and a VDA (German Automobile Association) goods tag must be included with every shipment. The delivery note must contain the following data, the total of the delivery quantity and all data indicated in the order, especially order number, item and the correct unloading point. The VDA goods tag must carry bar code 39 in accordance with standard 4902 version 4. The goods delivery must be labelled as follows: Total shipment of all packing units per delivery note; The individual packing unit (e.g. pallet, skeleton box, container, large box, etc.) by VDA label; The part/partial quantity therein (bag, roll, packet, etc.) labelled with quantity and drawing number according to the technical specification. Further information can be found in the document „Richtlinien für Lieferanten“.
8. Where goods are transported beyond international borders, the Supplier shall be obliged to provide the customs invoice necessary for custom clearance already at delivery. The invoice shall be issued in English or the language of the destination country and must include the following data: name and telephone numbers of the Purchaser's and the Vendor's contact persons who are familiar with the transaction; Purchaser's order/purchase order number, Purchaser's invoice items of the purchase order, release code number (with skeleton agreements), individual component numbers and detailed description of goods; purchase price per item stated in the currency applicable to the transaction; quantity; INCOTERM or Incoterms®2010 and designated location, in addition to the country of origin and customs tariff number of the goods. Moreover, all goods and services provided by the Purchaser to the Vendor for production of the goods which are not included in the purchase price, must be identified separately on the invoice (e.g. consigned materials, tools, etc.) Every invoice must also include the relevant order number or other references to consigned goods and list all discounts or reductions offered on the basic price which were taken into consideration when determining the invoice value.
9. Where agreements exist between the destination country to which the goods are to be delivered and the country in which

the Vendor is based in respect of preferential treatment in terms of commerce or customs duties („trade agreement“), the Vendor shall be obliged to cooperate with the Purchaser in examining the eligibility of goods for special programmes of benefit to the Purchaser and to supply the Purchaser with the necessary documentation (such as the EUR1 Certificate, preferential certificate of origin, FAD, NAFTA Certificate of Origin or other certificates of origin) in accordance with the relevant preferential customs treatment programme (e.g. EEA, Lomé Convention, EU / Mediterranean Partnerships, GSP, EU-Mexico Free Trade Agreement, NAFTA, etc.) to allow the goods to enter the destination country duty-free or subject to preferential treatment. Likewise, where there exists a trade agreement or preferential customs treatment programme which is applicable to the scope of the purchase order and this is deemed by the Purchaser to be of benefit to himself at any time during its execution, the Vendor shall be obliged to support the Purchaser in his efforts to realise such benefits, including the value of any countertrades ensuing from the purchase order or set-off, and the Vendor shall acknowledge that such benefits and preferential treatment shall solely accrue to the Purchaser. The Vendor shall be obliged to indemnify the Purchaser for any costs, fines, contractual penalties or charges resulting from the Vendor's inaccurate documentation or failure on the part of the Purchaser to cooperate in a timely manner. The Vendor shall be obliged to immediately notify the Purchaser of any errors known to exist in the documentation.

10. Where the ICS (Import Control System) customs procedure is of relevance, this shall be observed by the Supplier, who shall thus in particular make available to the custom authorities the data pertinent to customs clearance in a timely manner in the form of the stipulated entry summary declaration (ENS), also (Entry Summary Declaration, also referred to in German as Eingangs-SumA).
11. International Trade Controls
All transactions within the scope of the delivery relations must always meet the requirements of the respectively valid export control laws and directives.

The Supplier is obliged to meet the requirements of the respective valid export control laws and directives even after cancellation and beyond if the obligations within the scope of the business relations are fulfilled or cancelled in another way.

§ 4 Export Control and Customers, Supplier Declarations, Certificates of Origin

1. The Supplier is obliged to inform us of any approval obligations for (re-)exports of his goods in accordance with German; European, US export and customers regulations as well as the export and customs regulations of the country of origin of his goods in his business documents. In order to do this, the Supplier shall provide the following information at least in his quotes, order confirmations and invoices for the items of goods concerned:



- the export list number according to appendix AL to the German Foreign Trade Directive or comparable list items of pertinent export lists,
- for US goods the ECCN (Export Control Classification Number) in accordance with US Export Administration Regulations (EAR),
- the trade-political origin of his goods and the components of his goods, including technology and software,
- whether the goods were transported through the USA, manufactured or stored in the USA or manufactured with the aid of US-American technology,
- the statistical goods number (HS-code) of his goods, as well as
- a contact in his company for clarification of any inquiries by us.

Upon our demand, the Supplier shall be obliged to notify us in writing of all other foreign trade data of his goods and their components and to inform us immediately in writing (before delivery of goods affected accordingly by this) about all changes to the above data.

Further, in case of the existence of any export license, Supplier shall provide a copy of that document ZIEHL-ABEGG, showing all relevant information relating to the delivery, including any provisos, ZIEHL-ABEGG has to comply with, e.g., but not limited to cases of re-exports. Any information or provisos which are compliance obligations of ZIEHL-ABEGG, may be blacked in that copy.

2. Supplier Declarations, Preference

An essential part of the contracts ensuing from these Terms and Conditions of Purchase is the obligation to submit long-term delivery declarations for goods with a preferential origin property in accordance with the EC version valid at the time of delivery. The Supplier shall also provide certificates of origin as well as any further documents/data according to foreign trade specifications upon demand.

If the long-term delivery declarations turn out to be insufficiently informative or incorrect, the Supplier shall be obliged to provide us with error-free, complete and customer-confirmed information sheets about the origin of the goods upon demand.

3. If we or our customers are charged by a customs authority due to our faulty declarations of origin or if we or our customers suffer any other financial disadvantages as a result and the error is due to an incorrect specification of origin of the Supplier, the Supplier will be fully liable.
4. Supplier shall be responsible for obtaining in time, at his own cost, all necessary governmental export licenses, authorizations, approvals and clearances, required for the delivery to make sure that all goods to be delivered can be used by ZIEHL-ABEGG in accordance with the purchase order and that all deliverables can be made in due time.

§ 5 Reporting Obligations Conflict Minerals

The Supplier undertakes to comply with the respective regulations passed by the Securities and Exchange Commission (SEC) regarding conflict minerals. The Supplier shall find out about the conformity regulations that are defined in the Conflict Minerals Final Rule on the SEC Website under <http://www.sec.gov/rules/final.shtml> or <http://www.sec.gov/news/press/2012/2012-163.htm>.

The Supplier shall implement resulting reporting obligations and measures vis à vis us in a timely manner.

Insofar as applicable, the Supplier undertakes to comply with the requirements in the field of environmental management which restrict the use of certain substances or demand their registration (cf. in particular, but not limited to, REACH-Regulation (EC) No 1907/2006 and RoHS-Directive 2011/65/EU (RoHS2) as in force).

If due to the above regulations certain changes in the availability or the intended use of the relevant materials, components, assemblies, finished products or packaging of goods are required or certain actions are to be performed by us, the Supplier shall inform us of this without undue delay.

In case of failure to do so or in case of incorrect information, the Supplier shall indemnify us from claims by third parties and compensate us for any suffered damage.

§ 6 Invoicing and Payment

1. Please send invoices in paperless form with the appropriate documents in pdf format after delivery to the following e-mail address: invoice@ziehl-abegg.de. Alternatively, the invoices should be sent to us in single copy on white paper in DIN A4 format. All invoices must be made out without exception to the invoice address in Künzelsau: ZIEHL-ABEGG SE, Accounting, Heinz-Ziehl-Straße, 74653 Künzelsau.

Invoiced sent by fax will not be processed!

Please ensure that the invoices contain all the information required by §14 VAT law as well as our order and supplier number. Invoices not submitted in due form shall not establish a due date for payment and shall only be deemed to have been received by ourselves once submitted in the proper form. ZIEHL-ABEGG reserves the right in the event of premature delivery to effect payment not until the due date agreed for settlement.

2. Payment shall be made by the normal commercial route, either within 14 calendar days with 3% discount or up to 60 days net, calculated according to delivery/service and receipt of invoice.
3. Insofar as certificates of material tests or other documents are agreed for the scope of supply, these are an essential part of the delivery and must be sent to us together with the invoice at the latest.

4. We shall hold a right of set-off and retention to the extent as provided by the statutory provisions.

§ 7 Delivery Dates, Delay in Delivery, Force Majeure

1. The delivery date specified in the order shall be binding.
2. The Supplier is obliged to inform us immediately in writing, should circumstances arise or become known to him which results in not being able to keep the agreed delivery date; at the same time he must state the probable duration of the delay.
3. In the event of any delay in delivery we shall hold the statutory claims in this regard. In particular ZIEHL-ABEGG shall be entitled to demand compensation instead of performance following fruitless expiry of a period of time of reasonable length. ZIEHL-ABEGG shall additionally be entitled in the case of default to withdraw from the contract at its discretion, whereby the risk of default on the part of the Supplier's sub-suppliers shall be borne by the Supplier. Any additional costs incurred for express shipment required to comply with delivery dates shall be for the Supplier's account.
4. In the event of delayed delivery ZIEHL-ABEGG shall be entitled to apply a contractual penalty amounting to 0.2% of the net total value of the order per working day of delay up to a maximum of 8% of the net total value of the order. ZIEHL-ABEGG may also apply the contractual penalty without making reservation until issue of the final invoice. Any claim to compensation due to non-performance shall be offset against the contractual penalty.
5. The Supplier shall only be entitled to claim against absence of provisions to be made by us or other co-operation obligations if he has reminded us in writing and ZIEHL-ABEGG has failed to meet these obligations within a reasonable period of grace.
6. Force majeure and industrial disputes shall release us from our obligation of performance for the duration of the disturbance and to the extent of its involvement.

ZIEHL-ABEGG is wholly or partly released from the obligation to accept the ordered delivery/performance and accordingly entitled to withdraw from the contract if the delivery/performance is no longer usable under consideration of economic aspects due to the delay caused by force majeure or the industrial dispute.

7. ZIEHL-ABEGG shall only accept partial delivery following explicit written agreement to this effect. In case of agreed partial shipments, the remaining quantity must be listed and the delivery date for the remaining delivery specified.

§ 8 Guarantee/Warranty, Dealer Issues

1. The Supplier guarantees that the construction of any supplied goods as well as the implementation of all performances conform with the state-of-the-art, the pertinent statutory provisions and rules and regulations of authorities, liability insurance associations and trade associations. If deviations from these regulations are necessary in individual cases, the Supplier must obtain written consent from ZIEHL-ABEGG.

The responsibility of the supplier for these deliveries/performances shall neither be excluded nor limited by this consent nor by any other approvals or other declarations on our part. Where the Supplier has reservations about the type of construction of a supplied good or the execution of a delivery intended by ZIEHL-ABEGG, he shall immediately notify ZIEHL-ABEGG in writing.

The statutory regulations on the statute of limitation, namely §§ 194 through 218 German Civil Code, shall apply in relation to the above mentioned guarantee. The terms of § 8 No. 1 of these General Terms and Conditions of Purchase prevail any other term of § 8 of these General Terms and Conditions of Purchase, especially terms on the statute of limitation of warranty claims according to § 8 No. 5 are not applicable in relation to claims from a guarantee.

2. The Supplier undertakes to make use within his financial and technical means of environmentally friendly products and procedures for his deliveries/services as well as for supplies or additional services rendered by third parties. The Supplier shall be liable for the environmental compatibility of the delivered products and packaging materials and for all consequential damage resulting from culpable failure to comply with his statutory obligations of disposal. The Supplier shall issue a certificate of inspection for the delivered goods at our request.
3. No incoming inspection of the delivered goods shall be performed by the Client. The Supplier agrees to waive its rights under Section 377 of the German Commercial Code (HGB). The Contractor moreover agrees that the outgoing goods inspection it is to carry out shall serve the same purpose as the incoming inspection in fact required from the Client according to § 377 German Commercial Code.

The Supplier shall ensure that his public liability insurance accepts the aforementioned amendment of the statutory liability provisions without impairing the existing cover offered by his public liability insurance. The Contractor shall at the Client's request immediately furnish certification to this effect from his insurers.

4. The statutory defect claims shall accrue to ZIEHL-ABEGG to their full extent (including consequential damage from defect); at all events ZIEHL-ABEGG shall be entitled at its discretion to request the elimination of defects by the Supplier or the delivery of a new item including to or at the place at which the product is used; this shall also apply in the case of contract work. It shall explicitly reserve the right to claim compensation, in particular to compensation in lieu of performance.



5. Where the Supplier fails to satisfy his obligation of subsequent fulfilment within a reasonable period of time set by ZIEHL-ABEGG, ZIEHL-ABEGG shall be entitled to itself perform the necessary measures at the expense and risk of the Supplier – without prejudice to further liability for defects in existence – or arrange for their performance by third parties. ZIEHL-ABEGG shall additionally be entitled to itself eliminate defects at the Supplier's expense in case of imminent danger or special urgency.

The limitation period for claims in respect of material defects shall be 36 months, calculated from the transfer of risk. In the case of spare parts the limitation period for claims in respect of material defects shall be 36 months from installation or commissioning, but shall come to an end at the latest 4 years from the transfer of risk. Claims due to defects on a building or items which were or are usually used for a building and have caused its defectiveness, have a limitation period of 5 years after delivery.

In relation to the statute of limitation for claims out of a guarantee according to § 8 No. 1 the preceding rules shall not be applicable but the terms of § 8 No. 1 of these General Terms and Conditions of Purchase instead.

6. For improved parts or for replacement delivery the limitation period for claims in respect of material defects shall begin after subsequent fulfilment; if acceptance has been agreed, the limitation period shall begin again from successful acceptance.
7. The Contractor shall assume the costs and risk involved in the return of defective items, as well as those costs incurred by the Client due to their defectiveness (in particular costs of processing, transport, infrastructure, labour, staffing and materials).
8. No worsening of the Client's position in comparison with procurement from the manufacturer (dealer issue)

If the Contractor is to be qualified as a dealer and not as a manufacturer, the Contractor will inform ZIEHL-ABEGG of this immediately. The following shall also apply:

The Contractor guarantees that the Client will be put in a position with respect to the warranty and other rights based on a defectiveness (material and legal defects) of the object of contract as if the Client had ordered directly from the manufacturer and the legal rights at least are pertinent.

The Contractor shall surrender his claims against the manufacturer(s) based on a defectiveness (material and legal defects) of the object of contract to the Client to help.

The Contractor assures that these claims are not fulfilled or excluded.

§ 9 Quality, Product Liability

1. The Supplier shall implement state-of-the-art quality assurance appropriate in type and scope (suitable quality management system e.g. DIN EN ISO 9000 ff) and provide ZIEHL-ABEGG with proof of this on demand. The Supplier shall additionally conclude a quality assurance agreement with ZIEHL-ABEGG as required. ZIEHL-ABEGG shall reserve the right to perform on-site testing to check the efficacy of said quality management system.
2. Where the Supplier is responsible for a product defect, he shall be obliged upon first demand to indemnify ZIEHL-ABEGG in respect of third-party claims for compensation where the cause can be attributed to his own sphere of management or organisation and where the Supplier bears or would bear liability vis-à-vis third parties.

Within the scope of his liability for damages in the aforementioned sense, the Supplier is also obliged to reimburse any expenses incurred by us from or in connection with a recall campaign. ZIEHL-ABEGG shall inform the Supplier of the content and extent of such recall measures as far as this is possible and can be reasonably expected of same – and shall offer him the opportunity to comment in this regard. All other statutory claims shall remain unaffected thereby.

The Supplier shall undertake to maintain product liability insurance including an appropriate level of cover for the risk of recall, offering however an insured sum of at least €5 million for each instance of personal injury/damage to property on a lump-sum basis for the term of the present agreement, i.e. until expiry of the limitation period for the relevant defect; where further claims to compensation accrue to ZIEHL-ABEGG, they shall remain unaffected thereby. The Supplier shall on request immediately provide ZIEHL-ABEGG with written evidence documenting the conclusion and maintenance of such insurance.

3. § 8, especially § 8 item 3, shall additionally apply.

§ 10 Property Rights

1. The Supplier guarantees that all deliveries are free of third-party property rights and in particular that delivery and use of the subject of delivery does not infringe patents, licenses or other property rights of third parties.
2. The Supplier shall indemnify ZIEHL-ABEGG and our customers in respect of third-party claims resulting from any infringement of property rights on first demand and shall also assume all associated costs incurred thereby.
3. ZIEHL-ABEGG shall be entitled at the Supplier's expense to obtain permission for use of the respective delivery items and services from their rightful owners.

4. The limitation period for claims in respect of defects as to title shall be 5 years from the transfer of risk.

§ 11 Social Responsibility and Environmental Protection, Behaviour Codex, Compliance with the Minimum Wage Act by the Suppliers

1. The Supplier shall be obliged to comply with the applicable national laws and regulations of the federal states.

The Supplier is committed in the framework of his corporate responsibility to the protection of human rights, compliance with work standards and rejection of discrimination and slave/child labour during the manufacture of products and the rendering of services and to the avoidance of any adverse effects for man and his environment during performance of his activities.

The Supplier confirms that he will not tolerate any form of corruption and bribery or to engage in same in any manner whatsoever.

The Supplier is asked to avoid making gifts to staff employed by ZIEHL-ABEGG. Conventional presents or invitations of minor value shall constitute an exception to this rule.

This shall not only apply to transactions between the Supplier and ZIEHL-ABEGG, but also to other business partners (own supply chain, intermediaries, staff, competitors and the public authorities).

2. ZIEHL-ABEGG may be subject to liability from § 13 Minimum Wages Act (MiLoG) in connection with § 14 Wages Act (AEntG) if and insofar as the Supplier or his subsuppliers do not pay or do not fully pay the minimum wage. The Supplier shall therefore guarantee that he and his subsuppliers will pay at the least the minimum wage in a timely manner and to the full to his employees in accordance with § 1 Minimum Wage Act (MiLoG). In the event that claims are made against ZIEHL-ABEGG by an employee of the Supplier or an employee of a contracted subsupplier, regardless of rank or a personnel leaser to pay the minimum wage as a guarantor in accordance with § 13 Minimum Wage Act (MiLoG) in connection with § 14 Wage Act (AEntG), the Supplier shall release ZIEHL-ABEGG from these claims already now. § 774 German Civil Code remains unaffected.

In addition, the Supplier is liable to ZIEHL-ABEGG for all damages incurred by ZIEHL-ABEGG from the Supplier's failure to keep the above promise.

If the Supplier culpably violates the Minimum Wage Act (MiLoG) and/or the obligations agreed in this respect, ZIEHL-ABEGG shall be entitled to cancel the business relation or the pertinent individual contracts without notice.

§ 12 Final Provisions

1. The Supplier shall not be entitled without our prior written consent to assign the contract either partially or in its entirety to third parties; this shall also apply to any awards to subcontractors or subsuppliers intended by the Supplier.
2. Unless agreed otherwise, the place of fulfilment for the delivery obligation the forwarding address or forwarding office desired by ourselves; for all other obligations of both parties the place of fulfilment is Kuenzelsau.
3. Where the Supplier ceases payments, a temporary trustee in bankruptcy is appointed or insolvency proceedings are instituted against his assets, ZIEHL-ABEGG shall be entitled to withdraw from the contract (extraordinarily) either partially or in its entirety. 4. The language of the contract shall be German. If the contract parties use another language in addition the German wording shall have priority.
5. The legal venue shall be the court with jurisdiction for our place of business. ZIEHL-ABEGG shall however also be entitled to bring actions at the Supplier's principal place of business.
6. German material law is applicable to the contractual and other relations between the contract parties; UN Law on the International Sale of Goods is excluded.



The Royal League

