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# General Terms and Conditions of Purchase

September 2017

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



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## General Terms and Conditions of Purchase of ZIEHL-ABEGG Japan KK

### [Goods/Parts] Basic Transaction Agreement

Ziehl-Abegg Japan Co. Ltd., the purchaser (hereinafter, "Purchaser"), and [ ], the seller (hereinafter, "Seller"), hereby enter into the following agreement (hereinafter, this "Agreement") in relation to the basic matters regarding the transaction of [goods/parts] between Purchaser and Seller.

## Chapter 1 – General Provisions

### Article 1 Basic Principles

1. The purpose of this Agreement is to aim for mutual prosperity through the transaction between Purchaser and Seller, thereby smoothly and reasonably maintaining and promoting the transaction between Purchaser and Seller.
2. For the purposes of attaining the purpose referred to in the preceding paragraph, Purchaser and Seller agree to faithfully perform this Agreement in good faith in accordance with the principles of trust and cooperation.

### Article 2 Applicable Scope

Unless otherwise provided herein, this Agreement shall be applicable to all the individual transactions related to the sales of the [goods/parts] between Purchaser and Seller (hereinafter, the "Individual Agreement(s)").

## Chapter 2 – Transaction

### Section 1 Formation, etc. of Individual Agreements

#### Article 3 Individual Agreement

1. An Individual Agreement shall set forth the following matters; provided, however, that the matters common to each Individual Agreement may be determined in advance upon discussion between Purchaser and Seller.
  - (1) Date of order;
  - (2) Item number and specifications;
  - (3) Quantity;
  - (4) Unit price and price amount;
  - (5) Delivery date;
  - (6) Delivery location;
  - (7) Payment method;
  - (8) Delivery terms;
  - (9) Other detailed agreed matters.

2. An Individual Agreement shall be formed by Purchaser's making a written order to Seller by the prescribed order form and Seller's acceptance of the same.
3. If Seller has any doubts or objections to Purchaser's order contents, Seller shall so indicate within ten (10) days after the order form arrives at Seller, and if Seller does not make any such indication, Seller shall be deemed to have accepted Purchaser's order.

### Article 4 Changes to an Individual Agreement

In the event that it becomes necessary to change the contents of an Individual Agreement, each of Purchaser and Seller shall be entitled to promptly notify the other party and change the Individual Agreement upon discussion with the other party. In the event of changing an Individual Agreement, the order form related to such Individual Agreement shall be revised, or these documents shall be newly prepared.

### Section 2 Delivery and Acceptance

#### Article 5 Delivery

1. Seller shall deliver the [goods/parts] of a quantity designated by Purchaser at the delivery location designated by Purchaser on the delivery date.
2. In the event of the occurrence of any circumstance which prevents Seller from delivering all or a part of the prescribed quantity on the delivery date, or the likelihood thereof, Seller shall immediately indicate to Purchaser the reason thereof and the scheduled delivery timing, and determine and implement countermeasures upon discussion between Purchaser and Seller.
3. Seller shall compensate any and all damages suffered by Purchaser due to failure of delivery on the delivery date, unless it is attributable to Purchaser.

#### Article 6 Acceptance and Receipt

1. After Seller's delivery of the [goods/parts], Purchaser shall immediately perform acceptance inspection pursuant to the inspection method and inspection specifications determined by Purchaser, and only accept the [goods/parts] which pass (hereinafter, the "Acceptance"). Purchaser shall promptly notify Seller in writing, etc. of the [goods/parts] which failed to pass.

2. Notwithstanding the provisions of the preceding paragraph, if Purchaser and Seller determine in advance to abbreviate the acceptance inspection, Purchaser shall immediately receive the [goods/parts] delivered by Seller, and Purchaser shall be deemed to have completed the Acceptance thereby.
3. Seller shall accept at its own expense the [goods/parts] which failed to pass as a result of the inspection, and deliver replacements by the due date designated by Purchaser, and make additional deliveries if any shortage of quantity is found.
4. If Seller makes delivery in excess of the agreed quantity as a result of the acceptance inspection, Seller shall accept the excess portion at its own expense by the due date designated by Purchaser.
5. If Purchaser gives other instructions in relation to Articles 6.3 and 6.4, Seller shall follow the same.
6. If Seller has any doubts or objections to the results of the acceptance inspection by Purchaser, Seller shall so indicate to Purchaser without delay, and resolve the same upon discussion between Purchaser and Seller.

#### **Article 7 Transfer of Title and Risk**

1. Title to the [goods/parts] shall transfer from Seller to Purchaser as of the Acceptance.
2. In the event that all or a part of the [goods/parts] are lost or damaged due to a cause not attributable to either Purchaser or Seller by the time of passage of the acceptance inspection by Purchaser, Seller shall be liable for any and all damages thereof.

### **Section 3 Quality Guarantee and Specifications**

#### **Article 8 Quality Guarantee**

1. Seller guarantees that the [goods/parts] which it delivers to Purchaser meet the specifications set forth in the following Article, and are of a quality complying with the requirements by Purchaser and the market.
2. Seller shall establish a quality guarantee system in order to guarantee the quality of the [goods/parts], and organize documents related to quality control and prepare quality management records.
3. Purchaser shall be entitled to request Seller to submit the documents and records referred to in the preceding paragraph to the extent necessary to attain the purposes of this Agreement.
4. If Purchaser deems necessary, Purchaser shall be entitled to investigate the manufacturing process of the [goods/

parts] at Seller's facility and other quality control status. In such case, Purchaser shall notify Seller in advance and discuss the investigation timing and method, etc.

5. In the event that any defects are found in the [goods/parts] and Purchaser requests Seller to take countermeasures for such defect, Seller shall analyze the cause and implement measures to prevent reoccurrence, and report the results thereof to Purchaser.
6. If Purchaser indicates any matters which should be improved in relation to Seller's quality guarantee system or quality control status related to the [goods/parts], Seller shall implement necessary measures upon Purchaser's reviewing such matter, and report the results thereof to Seller.

#### **Article 9 Specifications**

1. The specifications of the [goods/parts] shall conform to the following.
  - (1) Drawings, written specifications, specifications, standards, various materials and other similar documents prepared by Purchaser and lent to Seller;
  - (2) Drawing specification documents and the like prepared by Seller and received by Purchaser (hereinafter, the "Delivery Specification Drawings");
  - (3) Specifications publicly determined such as Japanese Industrial Standard specifications, etc. (provided, however, that if there exists any non-conformity between publicly determined specifications and lent drawings or Delivery Specification Drawings, the lent drawing or Delivery Specification Drawing shall prevail);
  - (4) Standards set forth in laws and regulations or municipal ordinances, etc.;
  - (5) Other matters determined upon discussion between Purchaser and Seller.
2. Seller shall receive Purchaser's seal of receipt for the drawing specifications, etc. of Seller or Seller's producer prior to the commencement of production of the [goods/parts] ordered by Purchaser. The same shall apply to any changes or additions to the Delivery Specification Drawings.
3. If Purchaser or Seller has any doubts or objections to the contents of the items set forth in Article 9.1, it shall indicate to the other party to such effect without delay, and endeavor to resolve the same upon discussion between Purchaser and Seller.

### **Section 4 Supplied Items and Lent Items**

#### **Article 10 Supplied Items**

1. In the event that it falls under any of the following, Purchaser shall be entitled, upon discussion with Seller, to supply to



Seller with or without charge any raw materials, products, semi-products, parts, packages, etc. required for the transaction with Seller (hereinafter, the "Supplied Items").

- (1) It is necessary to maintain the quality, function or specifications of the [goods/parts];
  - (2) Purchaser deems it necessary pursuant to Seller's request;
  - (3) There exist any other reasonable grounds.
2. In the event that Purchaser supplies the Supplied Items to Seller, Purchaser shall notify the item name, item number and delivery date, etc. to Seller in advance.

#### **Article 11 Handling of the Supplied Items**

Seller shall manage the Supplied Items supplied by Purchaser with the due care of a prudent manager, and shall not, without Purchaser's prior consent, use the same for any usage other than for which they were supplied, nor lend, sell, nor make any other dispositions such as providing as security, to any third party.

#### **Article 12 Lent Items**

1. Purchaser shall be entitled to lend to Seller any machines, molds, drawings, or tools, etc. (hereinafter, the "Lent Items") upon discussion between Purchaser and Seller as necessary.
2. The lending method, term and fee, etc. shall be determined upon discussion between Purchaser and Seller, and the provisions of the preceding Article shall apply mutatis mutandis to the handling of the Lent Items.

### **Section 5 Price and Payment**

#### **Article 13 Price**

1. The price of the [goods/parts] shall be determined upon discussion between Purchaser and Seller.
2. Unless otherwise provided, the price of the [goods/parts] shall include any and all expenses such as packaging expenses, transportation expenses, unloading expenses, package opening expenses and insurance expenses till the Acceptance.

#### **Article 14 Payment**

Purchaser shall make payment of the price of the [goods/parts] delivered by Seller by a method separately determined between Purchaser and Seller.

### **Section 6 Defect Indemnity and Product Liability**

#### **Article 15 Defect Indemnity Liability**

1. In the event that any defects are found to the [goods/parts] delivered within one (1) year after the Acceptance, Seller shall promptly make repairs or deliver replacements free of charge at Purchaser's request; excluding, however, the case in which the cause of the defect is attributable to Purchaser.
2. Even after the elapse of one (1) year after the Acceptance, if a material defect is found within a reasonable lifetime of the [goods/parts] and the cause thereof is attributable to Seller, the provisions of the main text of the preceding paragraph shall apply.
3. In relation to the provisions of the preceding two (2) paragraphs, if Purchaser obtains Seller's consent and Purchaser makes, or Purchaser causes a third party to make, repairs, Purchaser shall be entitled to request Seller to reimburse the expenses thereof.
4. In relation to the provisions of the preceding three (3) paragraphs, if Purchaser suffers damages, Purchaser shall be entitled to request Seller to make repairs or to deliver replacements, or to claim for compensation of damages in the place thereof.

#### **Article 16 Defect Indemnity Liability at the Time of Modification or Repair**

The provisions of the paragraphs of the preceding Article shall apply mutatis mutandis even in the case that Purchaser makes, or Purchaser causes a third party to make, modifications or repairs by or with methods, parts or materials designated by Seller after the Acceptance of the delivered [goods/parts].

#### **Article 17 Seller's Objection**

If Seller has any objections against the existence or non-existence of defects or the contents of indemnification, etc. upon the application of the provisions of the preceding two (2) Articles, Seller shall indicate to Purchaser to such effect without delay, and resolve the same upon discussion between Purchaser and Seller.

#### **Article 18 Product Liability**

In the event of the occurrence of any damages to the life, body or property of any third party due to a defect in the design, manufacturing, or instructions or warnings of the [goods/parts] delivered by Seller to Purchaser, and the occurrence of damages to Purchaser thereby, Seller shall compensate such damages; provided, however, that if it is due to the written specifications, etc. designated by Purchaser and Seller is not negligent for the occurrence of the results, Seller shall not be liable for the damages.





## Section 7 Intellectual Property Rights

### Article 19 Intellectual Property Rights

1. Seller shall exercise utmost care upon producing and delivering the [goods/parts] so as not to infringe upon any patent rights, utility model rights, design rights, trademark rights, copyrights or any other intellectual property rights of a third party.
2. In the event of the occurrence of any dispute of infringement, etc. of intellectual property rights with a third party or the likelihood thereof, Seller shall notify Purchaser in writing to such effect without delay.
3. In the event of the occurrence of any dispute of infringement, etc. of intellectual property rights with a third party or the likelihood thereof, Seller shall resolve such dispute by obtaining a license, etc. at its own expense and burden, and compensate any and all damages suffered by Purchaser by such dispute; excluding, however, the case in which the dispute is attributable to Purchaser.

## Chapter 3 – General Stipulations

### Section 1 General Rules

#### Article 20 Assignment of Rights and Duties

Neither Purchaser nor Seller shall assign, nor provide as security, to any third party its rights or duties related to this Agreement or an Individual Agreement without the prior written consent of the other party.

#### Article 21 Confidentiality

Neither Purchaser nor Seller shall divulge to any third party, nor disclose to any third party without the prior written consent of the other party, the business related or technical secrets of the other party which it became aware of through the transaction relationship.

#### Article 22 Investigation and Improvement

1. Seller shall proactively develop new technology, make proposals for improvement to Purchaser, provide information, etc. in order to improve the unit price, quality, function, production method, etc. of the objects.
2. For the purposes of attaining the purpose of this Agreement, Purchaser shall be entitled to investigate Seller's offices, etc. with Seller's consent, and to make requests for improvement and provide guidance, if it deems that it is necessary to make improvements to Seller's quality and production, etc.

### Article 23 Re-entrustment

1. Seller shall not entrust all or a part of the entrusted services to any third party upon producing the [goods/parts]; excluding, however, the case in which it obtains Purchaser's prior written consent.
2. Even in the case of the proviso in the preceding paragraph, Seller shall not be exempted from its obligations owed under this Agreement and an Individual Agreement in relation to the quality guarantee, delivery, handling of lent drawings, intellectual property rights and confidential information, etc. of the [goods/parts].

### Section 2 Termination

#### Article 24 Notification Obligation

In the event of the occurrence of any of the following facts to the Seller or the likelihood thereof, Seller shall promptly notify Purchaser.

- (1) Business transfer or succession, or merger;
- (2) Material changes to address, representative, trade name, or organization;
- (3) Any of the items set forth in Article 25.1

#### Article 25 Termination

1. In the event that the other party falls under any of the following, each of Purchaser and Seller shall be entitled to immediately terminate all or a party of this Agreement or an Individual Agreement without being required to give any notice or demand or to undertake any other procedures.
  - (1) It is subject to dispositions such as revocation or suspension, etc. of business by the supervisory authorities;
  - (2) It is subject to a petition for commencement of bankruptcy proceedings, commencement of civil rehabilitation proceedings, commencement of corporate reorganization proceedings, etc.;
  - (3) It resolves to dissolve;
  - (4) It is subject to attachment, provisional attachment, provisional disposition or compulsory execution by a third party, or it is subject to a disposition for delinquency of payment of tax and public dues;
  - (5) It becomes insolvent or unable to pay, or it is subject to a warning or a disposition of dishonor by the clearing-house;
  - (6) Its creditworthiness deteriorates significantly, or there occurs a material business related change with an impact upon its creditworthiness;
  - (7) There occurs an event which renders the performance of this Agreement or an Individual Agreement difficult due to disaster, labor dispute, etc.;
  - (8) There is a fraudulent act or any other untrustworthy act towards the other party;
  - (9) There occurs a material event similar to the above.



2. In the event that any of the following occur to Seller, Purchaser shall be entitled to terminate all or a part of this Agreement or an Individual Agreement by giving notice and demand setting forth a reasonable period.

- (1) It fails to commence the production, or suspends the production, of the [goods/parts] without reasonable grounds;
- (2) It fails to deliver the [goods/parts] without reasonable grounds;
- (3) It assigns the [goods/parts] to a third party without Purchaser's permission;
- (4) There is a likelihood of the occurrence of any event set forth in the above.

3. In the event that the other party breaches the provisions of this Agreement or an Individual Agreement, each of Purchaser and Seller shall be entitled to terminate all or a part of this Agreement or an Individual Agreement by giving notice and demand setting forth a reasonable period.

4. In addition to the provisions of the preceding two (2) paragraphs, each of Purchaser and Seller shall be entitled to terminate all or a part of this Agreement or an Individual Agreement with the other party's consent.

#### **Article 26 Measures at the Time of Termination**

1. Upon the termination of this Agreement, Seller shall immediately return to Purchaser the lent drawings, Lent Items, and Supplied Items without charge.
2. Upon the termination of this Agreement, Purchaser shall be entitled to purchase from Seller, with priority over any third party, the [goods/parts], works in process and Supplied Items with charge.
3. In the event that any termination event set forth in the items of the provisions of Article 25.1 occurs to either Purchaser or Seller itself, any and all of its obligations owed to the other party shall automatically become due and payable, and it shall immediately make payment of the entire obligations. The same shall apply in the case that this Agreement or an Individual Agreement is terminated pursuant to the provisions of Article 25.2.

#### **Article 27 Survival Clause**

Each of Purchaser and Seller mutually confirms that the provisions of Article [30] shall survive the termination of this Agreement.

#### **Article 28 Compensation of Damages**

In the event of the occurrence of any of the items of Articles 25.1 or 25.2 to the other party, each of Purchaser

and Seller shall be entitled to exercise termination rights against the other party, or to claim for compensation of damages suffered by it in the place thereof.

### **Section 3 Supplementary Rules**

#### **Article 29 Exclusion of Anti-social Forces**

1. Each of Purchaser and Seller represents that it is not currently any of an organized crime group, a member of an organized crime group, a quasi-member of an organized crime group, an organized crime group related company, a corporate racketeer, a political racketeer, a special intelligence organized crime group, etc. nor any other similar person (hereinafter, "Anti-social Forces"), nor a person belonging to a corporation in which Anti-social Forces are substantially involved in the management thereof, and covenants that it shall not fall under any of the above in the future.
2. In the event that the other party falls under any of the following, each of Purchaser and Seller shall be entitled to terminate the contract without giving any notice or demand, nor shall be required to compensate for any damages suffered by the other party.
  - (1) It is deemed to fall under an Anti-social Force;
  - (2) Anti-social Forces are deemed to be substantially involved in the management of the other party;
  - (3) The other party is deemed to be using Anti-social Forces;
  - (4) The other party is deemed to be involved such as by providing funds, etc. or granting benefits to Anti-social Forces;
  - (5) The other party, an officer of the other party, or a person substantially involved in the other party's management has a relationship with an Anti-social Force subject to social criticism;
  - (6) It performs, or uses a third party to perform, a violent act of request, an unreasonable act of request in excess of its legal liabilities, threatening words or acts, impairment of credit or interference with business using violence and spread of rumors, deceit or influence, or any other similar act.

#### **Article 30 Term**

The term of this Agreement shall be for [1] years from the execution date of this Agreement; provided, however, that if neither Purchaser nor Seller manifests any intent at least two (2) months prior to the expiry of the term of this Agreement, the term of this Agreement shall be automatically extended for an additional period of one (1) year each.

#### **Article 31 Governing Law and Jurisdiction**

1. This Agreement is governed by and construed in accordance with the laws of Japan.

2. Any and all disputes occurring between Purchaser and Seller in relation to this Agreement or an Individual Agreement shall submit to the exclusive agreed jurisdiction of the Tokyo District Court at the first instance.

#### **Article 32 Discussion in Good Faith**

In the event of the occurrence of any matters not set forth in this Agreement or an Individual Agreement, or any doubts to the construction of this Agreement or an Individual Agreement, Purchaser and Seller shall resolve the same upon engaging in discussion in good faith.







# The Royal League

