

Movement by Perfection



The Royal League in ventilation, control and drive technology

# General Terms and Conditions of Business

May 2020

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



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## General Terms and Conditions of Business of ZIEHL-ABEGG COLOMBIA S.A.S

### I. General Business Conditions Application

1. All our deliveries, services and offers will be governed by the present General Business Conditions that, likewise, will govern any future commercial relationship, even when the parties do not expressly agree.

2. These general terms and conditions will be deemed to have been accepted by the customer upon receipt of the goods and services.

In this way, any counter-confirmation made by the client is rejected, in accordance with his own General Business Conditions or General Purchase Conditions.

The conditions to the contrary of the customer are not binding even if the order is based on them or if the client refers to them in printed matter or other documents. The terms and conditions of the customer that conflict with those of this document are expressly excluded.

3. The rights granted to us by the current legislative provisions in addition to those provided in these General Business Conditions remain unchanged, unless the parties expressly agree that they will be governed by others.

4. These General Conditions will apply exclusively in relation to the commercial legal relations between businessmen.

3. For technical reasons, we reserve the right to supply up to 5% more or less of the agreed material volume in the case of consumables or small parts.

In the case of a smaller supply than the one agreed, no payment will be made.

4. Except in the event that the data to which the customer refers is found in our catalogs at the time of making a purchase order, the customer is obliged to provide ZIEHL-ABEGG the necessary general information, such as end use, type of installation, operating conditions and any other information that must be considered.

5. ZIEHL-ABEGG deliveries include protection mechanisms as long as it has been expressly agreed.

6. In accordance with the provisions of intellectual property and copyright laws, we reserve the exploitation rights over cost estimates, drawings and any other document; these documents cannot be transferred to third parties.

The drawings and documents that are part of the offers presented by ZIEHL-ABEGG must be returned without delay at the time the other party becomes aware that the purchase will not be made.

7. All subsidiary agreements must be confirmed by the parties in a document that they must sign and that will be annexed to the provisions contained in this document.

### II. Offers, scope of services

1. To determine the scope of our deliveries and services, it will be mandatory for ZIEHL-ABEGG a written confirmation of the purchase order.

In the case of a time limit offer rendering, it will be binding for the parties that such offer has been accepted within the term established in the document and once confirmation has been received from the other party.

2. Illustrations, drawings, data such as weights, measurements, performance and consumption, and any other description of the goods in the documentation attached to our offer are only approximate, provided that they have not been expressly specified to be binding.

They do not in themselves constitute an agreement or a guarantee of quality or characteristics of the goods.

### III. Special features in case of exchanged correspondence by electronic communication and/or fax

1. If a message (Statement of claims) is sent electronically (electronic communication), said message shall be deemed to have been received by the recipient when the message has been delivered to the recipient's communication device and upon prior notification from the receipt confirmation of the party.

2. A message shall be deemed to have been received by the recipient by retrieving the message when it is available for retrieval at the appropriate location on the sender's communication device and when the recipient has retrieved it from that location.

3. The contracting parties acknowledge the legal validity of the messages transmitted in accordance with points 1 and 2 above.
4. If the contracting parties exchange correspondence by fax, the transmission report will be considered satisfactory evidence of our communications' reception.

#### IV. Price

1. Unless there is a different agreement in this regard, the prices for ZIEHL-ABEGG are ex-works and include the load in our facilities but do not include packaging.

In due course, the appropriate VAT percentage will be added to these prices.

2. In the event that the delivery or service is to be performed or provided more than four months after the signature of the contract, ZIEHL-ABEGG reserves the right to increase the prices in a reasonable way if there has been a significant increase in costs that prevailed at the time of the contract conclusion, in the event that these were decisive for the price setting, in particular the cost of materials, wages and public fees.

#### V. Retention of title

1. ZIEHL-ABEGG reserves the right to demand the necessary guarantees from the client and until all outstanding debts (including those on savings, checking and credit accounts) have been satisfied, both at the time of sale and in subsequent operations, for the relevant legal reasons.

These guarantees may be returned at the request of the customer provided that their value permanently exceeds 20% of the debts it holds. For the determination of the guarantee, the credits will always be valued at their nominal value, the goods whose domain is retained will be valued at their net purchase price - VAT not included - declared on the invoice and, in the case of joint ownership, the corresponding part will be determining of the main's item real value.

Thus, the highest interest will be deducted from third parties from the value determined, until the credits are guaranteed with said interest at the time the client requests the return.

2. All supplied goods will remain our property until all debts derived from the commercial relationship, including those that have not yet expired, have been fully settled.

This also applies if the client accepts the outstanding balance. In that case, the retention of title will serve as a guarantee for the resulting debt from said balance. During the legal effect of the retention of title right, the client has the obligation to keep the property in good condition.

In particular, the customer is obliged to insure at his own expense the goods for the purchase value against any damage caused by fire, water and theft.

The customer shall immediately assign to ZIEHL-ABEGG any compensation received following a claim to this insurance. This assignment is accepted in these general conditions. If such assignment is not possible, the customer shall irrevocably instruct his insurer to make the payment, if any, exclusively to ZIEHL-ABEGG, without prejudice to any other more far-reaching claims made by ZIEHL-ABEGG.

At the request of ZIEHL-ABEGG, the client must provide the insurance policy purchase proof.

3. The client is entitled to resell or process the supplied goods within the framework of his professional activity. In the case of a resale, the claim arising from the resale of the goods, will be assigned to ZIEHL-ABEGG by the customer with all secondary rights, replacing the supplied goods.

ZIEHL-ABEGG accepts the assignment in advance. If such assignment is not possible, the customer shall irrevocably instruct his buyer to make the payment, if any, exclusively to ZIEHL-ABEGG. Until revoked, the customer is entitled to receive the credit. Until revoked, the customer is entitled to receive the credit. Until revoked, the customer is entitled to receive the credit. Until revoked, the customer is entitled to receive the credit.

All amounts received must be deposited collectively and forwarded to ZIEHL-ABEGG by the customer until all debts have been paid in full.

If the customer's buyer makes the payment by bank transfer, the customer will thereafter assign to us the collection made through the relevant financial institution through which the transfer was made. We accept the assignment.

At our request, the customer must provide us with all the required information and allow us to review the records.

4. In the event that the customer processes the goods whose ownership is retained, the contracting parties agree that such processing will be carried out on behalf of ZIEHL-ABEGG, so that the new assets will become the property of ZIEHL-ABEGG.
5. The inheritance right that a third party may have over the assets whose ownership is retained will continue until the relevant time in the processed or transformed assets.



If the processing costs significantly exceed the value of the ZIEHL-ABEGG goods, the contracting parties agree that the goods will also be processed on behalf of ZIEHL-ABEGG and that the latter will acquire in co-ownership the proportionate share of the new goods corresponding to the invoiced value of the goods of ZIEHL-ABEGG.

If the customer incorporates the goods whose ownership is retained into another good, so that the goods of ZIEHL-ABEGG become an essential part of the other asset, which then becomes the main good, the customer undertakes to transfer to ZIEHL-ABEGG from this moment on the proportional co-ownership of the new good.

The customer must keep these goods on deposit at no cost to us. In case of resale, the above provisions shall apply.

6. If at the time of the conclusion of the contract ZIEHL-ABEGG has reasonable doubts about the customer's creditworthiness, or if the customer does not settle a debt owed to ZIEHL-ABEGG, we are entitled to withdraw from the contract without setting an additional period of performance and to demand by way of security that the goods owned or co-owned by us be assigned to us until the debts owed have been settled in full.
7. In the event that goods owned or co-owned by us or receivables to be collected by us are seized or confiscated by third parties, the customer shall without delay provide proof of our ownership or possession of the goods to these third parties or to the garnisher; in addition, the customer shall notify ZIEHL-ABEGG of the measures taken without delay and shall provide assistance in the necessary manner to ensure the protection of the rights of ZIEHL-ABEGG.

If the goods are confiscated by ZIEHL-ABEGG, such confiscating cannot be considered a waiver of the retention of title or a rescission from the contract.

8. Assets owned or co-owned by ZIEHL-ABEGG may not be assigned to third parties as security or given as collateral or encumbered in any other way.
9. If the goods are delivered to countries with a different legal system, where the provisions concerning the retention of title in accordance with points 1 to 6 above, afford less protection than in the country in which our company has its registered office, the customer must provide us with a security which is customary in that country and which is equivalent in economic terms to the retention of title in the country in which our company has its registered office. If other statements or actions are necessary for this purpose, the customer must do everything necessary to provide us with such assurance immediately. The customer must take all appropriate measures to ensure the validity and enforceability of this guarantee.

## VI. Payment Conditions

1. Unless otherwise agreed, payment of the invoices for ZIEHL-ABEGG must be made, without the possibility of a discount, within ten days from the invoice date.

ZIEHL-ABEGG will only accept payments in cash or with a bill of exchange upon agreement between the parties. Even if the customer's provisions stipulate otherwise, we reserve the right to apply payments first against the customer's oldest debts, in which case we must inform the customer of the type of adjustment made. If costs and interest have already been incurred, we reserve the right to apply the payment first against costs, then against interest and finally against the principal debt.

2. Payments will be deemed to have been made only when such an amount is available. In the case of payment by check, payment will be considered made only when the check has been cashed.
3. In the event that the client incurs delays in payments, ZIEHL-ABEGG reserves the right to charge the customer the corresponding interest for late payment at the maximum rate allowed by the Colombian Financial Superintendence, as of the relevant date.

Notwithstanding the above, ZIEHL-ABEGG reserves the right to demand compensation for damages and losses caused from the client.

4. If ZIEHL-ABEGG has reasonable doubts about the customer's creditworthiness, in particular if a check cannot be cashed, if payments are suspended or if any other circumstances arise that give rise to reasonable doubts about the customer's creditworthiness, ZIEHL-ABEGG reserves the right to demand payment of the remaining debt even if payment by check has been accepted. In that case, ZIEHL-ABEGG also reserves the right to demand advance payments or the provision of a guarantee.
5. The customer may file a counterclaim which will entitle him to a counter-plea only if the claim has been established by a final declaratory judgment or if it is indisputable. The customer can claim his right of retention only if the customer's counterclaim arises from the same contractual relationship.

## VII. Delivery and service terms

1. The deadlines or delivery dates, which may be defined as binding or non-binding, will have to be previously agreed in writing.



2. No liability may be required from ZIEHL-ABEGG in the case of delays in the delivery or in the service provision caused by force majeure or fortuitous event and/or for events that may hinder or impede the delivery.

These events particularly include strikes, lockouts, official orders, etc., even if those events also affect the ZIEHL-ABEGG vendors or their sub-vendors, even if the periods and deadlines have been agreed upon in a binding manner.

As a consequence of these events, ZIEHL-ABEGG reserves the right to delay the delivery or provision of the service for a time equivalent to the duration of the impairment plus a reasonable start-up period. If such events significantly change the economic relevance or the content of the delivery or service, or if they have a significant impact on our business operations, ZIEHL-ABEGG may additionally request a reasonable adjustment of the contract.

If the impediment lasts longer than a month, ZIEHL-ABEGG reserves the right to terminate the contract totally or partially for the unfulfilled part of the contract.

If ZIEHL-ABEGG wishes to make use of the right of rescission, it must notify the customer of this intention once the relevance of the impairment has been confirmed.

If, as a result of such events, the delivery time is extended or if ZIEHL-ABEGG is exempt from the obligation to provide the service, the customer is not entitled to file any claims for damages. However, the circumstances mentioned above can only be alleged if the customer has been sent notification prior to the occurrence of the event.

3. If, for reasons attributable to ZIEHL-ABEGG, the delivery and service dates and deadlines agreed in a binding manner are not met, the compensation claimed by the customer shall be limited to an amount equal to 0.5% for each full week of delay, and in total, up to a maximum of 5% of the invoice value for the deliveries and services affected by the delay.

Any further claims shall be excluded unless the delay was caused by at least one gross negligence.

4. ZIEHL-ABEGG reserves the right to make partial deliveries and to provide partial services at any time, unless this constitutes an unacceptable burden on the customer.
5. The fulfillment of the delivery obligations by ZIEHL-ABEGG and the provision of services is conditional upon the customer fulfilling its obligations in an appropriate time and manner (in accordance with the provisions of this document and the contract).
6. The delivery time shall be deemed to have been complied with if the goods have left the premises or if ZIEHL-ABEGG has notified the customer that the goods were ready for delivery at the expiration of the delivery period. Delivery on time is sub-

ject to the correct and timely supply of the necessary materials at the premises of ZIEHL-ABEGG.

7. The delay in delivery entitles the customer to cancel the contract if, at the time of the delay, the customer gives a final additional period for the provision of the service, warning that such provision will not be accepted if this additional period has expired, and if this period finally expires without delivery having taken place.
8. If there is a delay in acceptance by the customer, we reserve the right to demand compensation for damages; in this case, the risks of accidental impairment and accidental loss or destruction shall pass to the customer.

## VIII. Software Supply

1. In the case of software supply, the customer is granted a non-exclusive and non-transferable right to use the software and related documentation to operate the goods for which the software is supplied.

The client will not be able to make copies of it, except for a backup copy. Nor may he remove or alter references to authors, serial numbers and other elements that serve to identify such software.

2. The customer is obliged to prevent any unauthorized access by third parties to the software and documentation by taking appropriate measures. The customer must keep the original data storage device supplied and the backup copy in a place protected against unauthorized access by third parties. The client shall continuously remind his employees of the duty to comply with these conditions and with the provisions of copyright law.
3. Our liability for the loss or alteration of data is limited to the cost of recovery that would be incurred if backups were made at regular intervals and based on risk.

## IX. Risk transfer and receipt

1. The risk is transferred to the customer at the time of delivery of the parts and/or goods to be supplied, even if partial deliveries are made or even if other obligations have been assumed, e.g. shipping costs or delivery and installation.

If the shipment is not possible for reasons beyond ZIEHL-ABEGG, the risk is transferred to the customer at the time of notification that the materials are ready for delivery.



2. If there is a delay in shipping as a result of circumstances attributable to the customer, the risk is transferred to the customer as soon as the materials are ready for delivery.
3. The customer must receive the items supplied even if they have minor defects.

## X. Claims for defects

1. The customer may not refuse deliveries due to insignificant defects. It is the customer's obligation to examine the deliveries and report defects, as well as their consequences.

Obvious defects and those that can be identified after due examination must be notified in writing no later than eight days after delivery of the goods to the customer. Other (hidden) defects must be reported to ZIEHL-ABEGG in writing no later than eight days after being discovered.

Notices of defects must be sent in writing to our headquarters located in Bogotá, Colombia; notices of defects transmitted to facility personnel, carriers or third parties will not be considered timely and proper notices of defects.

2. ZIEHL-ABEGG assumes responsibility for a specific application or suitability only upon explicit written agreement. Otherwise, the customer assumes the risk of suitability and use.

If ZIEHL-ABEGG has informed the customer about the technical conditions or other specifications regarding the use, the customer will be responsible for its compliance and must in turn inform its buyers of these specifications and compel them to comply with them. ZIEHL-ABEGG will not assume any liability for defects that have arisen as a result of using the goods in a way that does not comply with the specifications.

In particular, claims for defects shall not be accepted when damage to the delivered product or other goods of the customer is caused by:

- a. Incorrect processing, assembly or treatment;
- b. Incorrect installation of the delivered product by the customer or a third party, unless the incorrect installation is carried out according to instructions from ZIEHL-ABEGG, for which our installation personnel are not authorized to give instructions;
- c. Non-compliance with the commissioning, application and operating instructions of the delivered product, contained in the product documentation, operating instructions or instructions given by ZIEHL-ABEGG;

- d. Wear and tear that cannot be attributed to production or material defects
- e. Incorrect handling or improper repairs of the goods by the customer or by third parties, carried out in an inappropriate manner, specifically by unqualified persons or due to the use of non-authentic spare parts or resources.

ZIEHL-ABEGG will not assume liability for defects that are the responsibility of the customer or that have been caused by technical reasons other than the original defect.

3. If there is a defect and the goods have to be returned, the return will only take place with the prior consent of ZIEHL-ABEGG. The return of goods made without the express consent of ZIEHL-ABEGG will not be accepted.

In any case, the customer must assume the shipping costs.

4. If the goods, after notification of the defects, are repaired or replaced by others, the provisions of Section VII regarding delivery times shall apply.
5. The existence of a defect that has been identified as such and that has been notified to ZIEHL-ABEGG in the due time and form will grant the client the following rights:

- a. If a defect exists, the customer may first request that the item be repaired or replaced („Subsequent Compliance“). Unless clause X. 5 c) applies, the decision to supply a new item or to repair the defective item will be at our discretion.

If the item is repaired, to the extent that the notification of defects is justified, we shall be obliged to bear the direct costs arising from the repair of the item, in particular the costs of transport, travel and the cost of our own labour and materials, provided that these costs and expenses do not increase as a result of transporting the materials to a place other than the agreed delivery address. This obligation shall be limited to costs arising or likely to arise in connection to the delivery address of the goods.

If the goods are sent to an address other than the delivery address, and if the shipment to the different address was not included in the delivery contract concluded by ZIEHL-ABEGG with the customer, the latter must assume the extra costs caused by such disruption.

- b. If we choose to do so, we may employ third parties to repair the goods or replace them with others, without this establishing a contractual relationship between the customer and these third parties.

In that case, we will assume the same responsibility as if the repair or replacement were carried out by ourselves. Additionally, if the subsequent compliance attempt fails, subject to clause X (5).

- c. The provisions relating to subsequent compliance under clause X. 5 (a) or X. 5 b), for example, shall not apply if they would cause an unacceptable burden on the customer, such as in the case of unjustified refusal or unacceptable delay of subsequent compliance.
6. The customer's time limit for filing a defect claim is one year, unless the defective item has been used in a construction following normal use and has caused problems in that construction. The one-year limit period also applies to civil liability claims arising from a material defect.

The limit begins to count at the time of delivery of the materials. This provision shall apply without prejudice to our unlimited liability for losses resulting from breach of warranty or death, injury, health problems, misconduct and gross negligence, as well as product defects.

If we make a statement in connection with a defect claim submitted by the customer, such statement shall not be deemed to be the commencement of a negotiation concerning the claim or the circumstances leading to such claim, if we categorically reject the relevant claim.

In any case, the customer must prove that the defect already existed at the time of delivery.

## XI. Liability

1. ZIEHL-ABEGG assumes unlimited liability for losses resulting from breach of warranty on products, goods and/or services, or from death, injury or health problems.

The same applies in relation to our liability for misconduct and gross negligence.

However, liability will apply as long as the respective claims have been made.

2. In cases of slight negligence, ZIEHL-ABEGG will only be liable in case of breach of material obligations arising from the nature of the contract and which are particularly relevant to the object of the contract.

In the event of failure to comply with such obligations, or if there is a delay or the provision of the service is or becomes impossible, our liability shall be limited to such losses as may be predictable under the contract.

3. The foregoing provisions shall apply without prejudice to the mandatory legal liability for product defects.
4. The customer's claim for reimbursement of expenses is excluded, unless a relevant third party had generated such expenses. In addition, the claim for damages or for the reimbursement of expenses - for any legal reason - that exceeds the provisions of clause XI (1) to (3) is excluded.
5. Our liability for essential third-party products is limited to claims for defects against the supplier of third-party products. This provision will not apply if such claims against the vendor are not legally applicable or if they are unacceptable to the customer.
6. If the customer or one of his customers resells the goods delivered by ZIEHL-ABEGG, to an end customer (natural person), the statutory provisions governing the matter shall apply. In this case ZIEHL-ABEGG will only be liable if the customer has not agreed with his customer on conditions that exceed the mandatory legal provisions for product defects and provided that the customer has fulfilled his obligation to examine the product and notify the possible defect.
7. Repairs due to defects, product substitutions or damage payments will not be considered as recognition of a legal obligation, unless we agree, in each specific case and in writing.

## XII. Other customer obligations, export control

1. The customer must not modify the goods in any way that could affect their safety; in particular, the customer must not modify or remove the hazard warnings in the event of improper use of the contract materials. If this duty is breached, the customer shall indemnify the relevant internal party and keep ZIEHL-ABEGG out of any product liability claims by third parties, provided that the customer is responsible for such misuse.
2. If it is necessary to have a product recall or issue a defect warning on any of the goods, the customer must attend ZIEHL-ABEGG and take all relevant measures ordered by ZIEHL-ABEGG. The customer is obliged to bear the costs of product recall or warnings, provided that, in accordance with the principles of product liability law, the customer is responsible for product defects and damages. This provision shall apply without prejudice to other claims submitted by ZIEHL-ABEGG.
3. The customer must notify ZIEHL-ABEGG without delay of any risk in the use of the contractual goods and any possible defects that may have been found in the product.



4. The supply of goods (products, software, technology) in compliance with this contract may be subject to export restrictions or prohibitions. The client must comply with all applicable control regulations and corresponding restrictions. This provision applies in particular to European, American and Colombian legal regulations concerning (re-) exports. In case of resale/forwarding of the supplied goods, the customer must warn the recipient about the legal provisions for export control.
5. In particular, the customer must ensure that the goods are not directly or indirectly used for purposes related in any way to chemical, biological or nuclear weapons or their transportation systems.

In addition, the customer must ensure that the items are not used directly or indirectly for military purposes in countries subject to an arms embargo. The customer shall not sell, export, re-export, supply or transfer the goods or otherwise make them available, directly or indirectly, to any person, company, facility, organization or country, if doing so would violate any applicable European or Spanish export control law or regulation, including U.S. (re-)export provisions.

6. The client, if requested, must provide certificates to prove the destination and final use of the products, which are necessary to obtain export licenses or authorizations.
7. The customer shall be fully liable for any loss incurred by ZIEHL-ABEGG that is caused by its failure to comply with the applicable export and re-export control provisions.
8. Performance of the contract and its corresponding obligations is subject to obtaining the required export or transfer permits and approvals, or any other authorization stipulated by foreign trade laws, or any other approval from the enforcing authorities, and to full compliance with all legal restrictions relating to export control laws.
9. The customer will be responsible for all taxes, charges and duties related to the service outside of Colombia and must compensate ZIEHL-ABEGG if applicable.

### **XIII. Confidentiality**

The contracting parties are obliged to maintain, for an unlimited period of time, the confidentiality of all information to which they have access and which is classified as confidential or which can be identified as commercially or economically secret under other circumstances, and they may not transmit or exploit such information.

The contracting parties shall ensure through appropriate contractual arrangements with their employees and agents

that the latter shall also refrain for an unlimited period of time from exploiting, transmitting or recording without authorization commercial or economic secret information on their own behalf.

### **XIV. Miscellany**

1. The transfer of the customer's rights and obligations to third parties is subject to the express written consent of ZIEHL-ABEGG.
2. The legal relations between the contracting parties shall be governed by the laws of the country in which our company has its lawful address, excluding any effect on the United Nations Convention on Contracts for the International Sale of Goods (CISG).
3. In connection with legal relations between merchants, the place of exclusive jurisdiction for any dispute resulting from the business relationship between the contracting parties shall be the place where our company has its lawful address in Bogotá, Colombia. We reserve the right to submit such dispute to the jurisdiction of the place where the customer has its principal business unit, as well as to the jurisdiction of any other permitted place.
4. The place of provision of all the services of the contracting parties shall be the place where our company has its registered office, in Bogotá, Colombia.
5. In the event that any provision of this agreement shall be or become void or unenforceable in whole or in part or if there is a gap in this agreement, the validity of the remainder of the agreement shall not be affected. The statutory provisions in force shall apply in lieu of the invalid stipulation.

If any provision of this agreement is or becomes inapplicable and if the application of the legal provisions in force does not lead to a reasonable solution for either party, a provision shall be deemed approved which corresponds to what would have been agreed upon according to the object of this agreement if the contracting parties had considered the relevant issue from the beginning.

The above shall also apply, if necessary, in the event of a gap in the agreement.

# The Royal League

