

Movement by Perfection



The Royal League in ventilation, control and drive technology

General Terms and Conditions of Business

November 2016



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THIS DOCUMENT (INCLUDING THE TERMS AND CONDITIONS OF SALE INCLUDED WITH, ATTACHED TO OR CONTAINED IN THIS DOCUMENT), TOGETHER WITH ANY WRITTEN SUPPLY AGREEMENT SIGNED BY BOTH PARTIES RELATED TO THE SALE OF PRODUCT TO PURCHASER AND ANY DOCUMENT PREVIOUSLY SUBMITTED BY SELLER TO PURCHASER, CONSTITUTES THE COMPLETE AND FINAL AGREEMENT OF SELLER AND PURCHASER, AND MAY NOT BE ADDED TO, MODIFIED, SUPERCEDED OR ALTERED EXCEPT BY WRITTEN AGREEMENT OR MODIFICATION SIGNED BY SELLER'S AUTHORIZED REPRESENTATIVE, NOTWITHSTANDING ANY TERMS AND CONDITIONS WHICH MAY NOW OR IN THE FUTURE APPEAR ON ANY PURCHASE ORDER, QUOTATION, ACKNOWLEDGMENT OR OTHER DOCUMENT OF PURCHASER. THIS DOCUMENT IS NOT AN ACCEPTANCE BY SELLER OF ANY TERMS AND CONDITIONS CONTAINED IN ANY PURCHASE ORDER, QUOTATION, ACKNOWLEDGMENT OR OTHER DOCUMENT OF PURCHASER, AND ANY SUCH ADDITIONAL TERMS ARE HEREBY OBJECTED TO WITHOUT FURTHER NOTICE TO PURCHASER. SELLER'S OFFER OF PRODUCT IS EXPRESSLY CONDITIONED ON PURCHASER'S ACCEPTANCE OF THIS DOCUMENT AND THE TERMS AND CONDITIONS OF SALE INCLUDED WITH, ATTACHED TO OR CONTAINED IN THIS DOCUMENT.



General Terms and Conditions of Business of ZIEHL-ABEGG Inc.

1. Definitions

- 1.1 "Seller" shall mean Ziehl-Abegg, Inc., a Delaware corporation.
- 1.2 "Purchaser" shall mean the person or entity listed on the face of this document, and any subsidiary or affiliate of such person or entity receiving Product under this Contract.
- 1.3 "Parties" shall mean the Seller and Purchaser, collectively.
- 1.4 "Product" shall mean the goods supplied pursuant to this Contract.
- 1.5 "Contract" shall mean the agreement between the Parties consisting exclusively of this document (including its Terms and Conditions of Sale) together with the terms of any written supply agreement signed by both Parties related to the sale of Product to Purchaser and any document previously submitted by Seller to Purchaser. In the event of a conflict between a term appearing in any document previously submitted by Seller to Purchaser and a term appearing in this document, this document shall control.

2. Delivery and Risk of Loss

Except as otherwise provided on the face of this document, (i) the Product shall be shipped FOB Seller's production facility to Purchaser at such locations as Purchaser directs in writing; (ii) all risk of loss, of any Product sold hereunder shall pass to Purchaser at the point of delivery to carrier at Seller's facility; and (iii) Purchaser shall bear the cost of freight from Seller's shipping location to Purchaser's directed location. Seller's performance shall be deemed to have occurred at the point of delivery to carrier at Seller's production facility. Any dates and times quoted for delivery of Product or the provision of services are approximate only. Notwithstanding anything to the contrary herein, title to and right to possession of the Product shall remain with Seller and Seller shall retain a security interest in the Product (or any goods into which the Product is incorpora-

ted by Purchaser) and any proceeds of Purchaser's sale of the Product in the ordinary course of Purchaser's business until any and all payments due from Purchaser to Seller pursuant to the Contract shall have been made.

3. Acceptance and Rejection

Promptly upon receipt of Product delivered hereunder, Purchaser shall inspect such Product for any damage, defect or shortage. All claims for shortage or nondelivery and any claim for damage or defect which could reasonably be discovered in the course of such inspection shall be waived unless Purchaser shall notify Seller in writing of the same within ten (10) days after receipt of such shipment of Product to which the claim relates. If Purchaser rejects in whole or in part any nonconforming shipment of Product, Purchaser shall provide Seller written notice of such rejection not later than ten (10) days after receipt of such shipment of Product. If Purchaser fails to provide Seller with such notice, Purchaser shall be deemed to have accepted the applicable shipment of Product. Upon written notice of nonconformity of any Product, Seller shall have the right to cure said nonconformity within a reasonable time even though the time for delivery has expired. Except as provided herein, all sales of Product hereunder shall be considered final and Purchaser shall have no right to return Product without the prior written permission of Seller, which permission may be withheld by Seller at Seller's sole discretion.

4. Method of Payment

Except as otherwise provided on the face of this document, all payments due hereunder to Seller shall be paid to Seller in United States Dollars not later than thirty (30) days following the receipt of the applicable invoice. Any invoiced amount which is not paid within ten (10) days of its due date shall be assessed a late payment fee at the rate of one and one-half percent (1.5%) per month or the maximum rate permitted by applicable law with respect to such obligations, whichever is less.

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5. Cancellations

Purchaser shall have no right to cancel a purchase order without first obtaining the prior written consent of Seller. Should Seller consent to the cancellation by Purchaser of a given purchase order, Purchaser shall reimburse Seller for (i) the costs of the any materials acquired or used in contemplation of fulfilling such order, (ii) other direct costs reasonably incurred by Seller in connection with Seller's performance pursuant to such purchase order up to the time of receipt of such notice and (iii) an additional amount equal to 10% of the aggregate amount reimbursed pursuant to subsections (i) and (ii) above as a cancellation processing fee.

6. Representations and Warranties

FOR A PERIOD OF ONE YEAR FROM THE DATE OF PURCHASER'S RECEIPT OF PRODUCT SOLD HEREUNDER, SELLER WARRANTS THAT SUCH PRODUCT SHALL BE OF SELLER'S STANDARD QUALITY AND SELLER MAKES NO OTHER WARRANTY OF ANY KIND, EXPRESS OR IMPLIED, INCLUDING WITHOUT LIMITATION, ANY WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE OR NON-INFRINGEMENT. SELLER SPECIFICALLY MAKES NO WARRANTIES AS TO ANY SERVICES OR AS TO COMPLIANCE WITH LAWS, REGULATIONS, STANDARDS AND/OR CONVENTIONS INCLUDING ANY RELATED TO THE ENVIRONMENT OR TO THE PACKAGING, LABELING AND/OR TRANSPORT OF HAZARDOUS GOODS. NO WARRANTY SHALL APPLY TO (I) SHIPPING DAMAGE, (II) DAMAGE CAUSED BY IMPROPER INSTALLATION OR IMPROPER WIRING, INCLUDING INCORRECT ELECTRICAL VOLTAGE, (III) PRODUCT THAT HAS BEEN MODIFIED OR ALTERED IN ANY WAY, (IV) DAMAGE CAUSED BY CORROSION, ABRASION, OR SEVERE TEMPERATURES, OR (V) PRODUCT THAT HAS BEEN SUBJECTED TO IMPROPER MAINTENANCE, ABUSE, MISUSE, ABNORMAL USAGE, OR ACCIDENT.

Purchaser warrants that it shall obtain any required importation licenses or approvals for importation of Product. Seller shall cooperate reasonably with Purchaser, at Purchaser's reasonable request and expense, to obtain such licenses or approvals. Purchaser warrants that it shall fully comply with all label directions for the handling, storage, possession or use of Products sold hereunder and Purchaser agrees that it shall indemnify and hold Seller harmless from all claims (including, without limitation, attorneys' fees) of personal injury or property damage resulting from any negligence, gross negligence, recklessness or willful misconduct on the part of Purchaser or from any failure of Purchaser to comply with the terms of this warranty.

7. Remedies

PURCHASER'S EXCLUSIVE REMEDY FOR SHORTAGE OF PRODUCT, DAMAGED OR DEFECTIVE PRODUCT (WHETHER OR NOT OCCURRING AS A RESULT OF SELLER'S ALLEGED NEGLIGENCE OR GROSS NEGLIGENCE) OR ANY OTHER CAUSE OF ACTION ARISING OUT OF THE CONTRACT, INCLUDING BREACH OF WARRANTY, IS EXPRESSLY LIMITED TO REPLACEMENT OF NONCONFORMING PRODUCT OR PAYMENT OF AN AMOUNT NOT TO EXCEED THE PURCHASE PRICE OF THE PRODUCT FOR WHICH DAMAGES ARE CLAIMED, AT SELLER'S OPTION. PURCHASER SHALL HAVE NO RIGHT TO SETOFF, TO WITHHOLD PAYMENT OR TO MAKE A REDUCTION IN PRICE. PURCHASER'S REMEDY OF REPLACEMENT OR REFUND IS AVAILABLE ONLY IF NONCONFORMANCE WAS NOT CAUSED BY PURCHASER OR BY ACCIDENT, FIRE OR OTHER HAZARD.

8. Limitation of Liability

IN NO EVENT SHALL SELLER, ITS DIRECTORS, OFFICERS, EMPLOYEES OR AGENTS BE LIABLE FOR ANY INCIDENTAL, CONSEQUENTIAL, INDIRECT OR SPECIAL DAMAGES, INCLUDING PUNITIVE OR TREBLE DAMAGES OR ATTORNEY'S FEES, WHETHER FORESEEABLE OR UNFORESEEABLE, BASED ON CLAIMS OF PURCHASER OR ITS CLIENTS OR CUSTOMERS (INCLUDING, BUT NOT LIMITED TO, CLAIMS FOR LOSS OF BUSINESS, GOODWILL, PROFITS, USE OF MONEY OR USE OF PRODUCTS OR IMPAIRMENT OF OTHER ASSETS), ARISING OUT OF BREACH OF ANY EXPRESS OR IMPLIED WARRANTY, BREACH OF CONTRACT, MISREPRESENTATION, NEGLIGENCE, GROSS NEGLIGENCE, STRICT LIABILITY IN TORT OR OTHERWISE IN CONNECTION WITH OR ARISING OUT OF THE CONTRACT, EXCEPT IN THE CASE OF PERSONAL INJURY OR PROPERTY DAMAGE WHERE AND ONLY TO THE EXTENT THAT APPLICABLE LAW REQUIRES SUCH LIABILITY. TO THE EXTENT PURCHASER INCORPORATES OR CAUSES OTHERS TO INCORPORATE THE PRODUCT IN ITS OWN PRODUCT OR THE PRODUCTS OF ANY THIRD PARTY, SELLER SHALL NOT BE LIABLE FOR THIRD PARTY CLAIMS FOR INFRINGEMENT OF LETTERS PATENT, REGISTERED DESIGN, TRADEMARK OR COPYRIGHT RESULTING FROM SUCH INCORPORATION AND BASED UPON THE USE OF THE PRODUCT OR THE MANUFACTURE, USE, SALE OR OFFER FOR SALE OF ANY PRODUCT CONTAINING SUCH PRODUCT, EXCEPT AS SUCH LIABILITY FOR THIRD PARTY CLAIMS FOR INFRINGEMENT IS EXPRESSLY REQUIRED BY APPLICABLE LAW AND NOT WAIVABLE BY PURCHASER.

PURCHASER ASSUMES RESPONSIBILITY FOR ALL PERSONAL INJURY AND PROPERTY DAMAGE RESULTING FROM

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THE HANDLING, POSSESSION, USE, RESALE OR DISPOSAL OF THE PRODUCT. ANY ACTION BY PURCHASER FOR BREACH OF THE CONTRACT BY SELLER OR ANY OTHER CAUSES OF ACTION OF PURCHASER EXPRESSLY ALLOWED UNDER THE CONTRACT MUST BE COMMENCED WITHIN ONE YEAR AFTER THE CAUSE OF ACTION HAS ACCRUED.

9. Indemnity

Purchaser agrees to indemnify, hold harmless and defend Seller and Seller's directors, officers, employees and agents, and the directors, officers, employees and agents of any Seller parent, subsidiary or related company (the „Seller Indemnitees“) from and against any and all claims, suits, losses, damages, costs, fees and expenses arising out of the death or injury to person or damage to property resulting from the sale, marketing or use of the Product by Purchaser, except to the extent that such claims, suits, losses, damages, costs, fees or expenses arise or result from any negligent or wrongful act or omission of Seller.

10. Insurance

Seller shall obtain insurance coverage as required by law and such other insurance coverage as Seller deems necessary, in its sole discretion, to fulfill its obligations under the Contract.

11. Force Majeure

No liability shall result from Seller's nonperformance or delay in performance hereunder, when due to (i) war (whether or not declared and whether or not the United States or the country in which Purchaser's place of business is located is a participant), act of the public enemy, act of God, riot, fire, explosion, flood, storm, accident, or sabotage; (ii) strike, lockout or other labor trouble (whether or not such labor trouble is within the reasonable control of Seller); (iii) compliance with any law, act, regulation, priority, request or recommendation of any governmental authority (including laws, regulations and orders pertaining to the protection of the environment); (iv) unavailability, shortage or significant increase in the cost of fuel, raw materials, energy sources or labor; (v) mechanical failure or breakdown of equipment; or (vi) any contingency beyond the reasonable control of Seller interfering with the production, supply, transportation, or consumption of the Product covered by the Contract or with the supply of raw materials used in connection herewith, provided Seller gives notice to Purchaser of the commencement, expected duration, estimated effect on ability to perform, and the termination of the event which causes its inability to perform. In such event, quantities so affected

will be eliminated from the Contract without liability to either Party thereof. If Seller is prevented from supplying Product due to an event of Force Majeure, Purchaser may obtain a supply of substitute Product during the period of nonperformance by Seller. Upon notice of Seller's ability to resume performance, Purchaser will make all reasonable efforts to resume purchases under the Contract at the earliest date. Otherwise, the Contract shall remain unaffected. Seller, shall, during any period of shortage due to any event of Force Majeure, allocate its supply of Product and of such raw material among its various uses thereof (e.g., manufacturing and sales) in a fair and equitable manner. In the event deliveries pursuant to the Contract have been suspended due to an event of Force Majeure for any consecutive three (3) month period, either Party may cancel the Contract upon thirty (30) days written notice to the other Party.

12. Miscellaneous

- 12.1 Remedies not Exclusive. All remedies available to the Parties for breach of obligations herein are cumulative and may be exercised concurrently or separately, and the exercise of any one remedy will not be deemed an election of such remedy to the exclusion of other remedies.
- 12.2 Amendments. The Contract may not be supplemented, altered or modified by the use of any other documents or oral communications unless agreed to in writing by Seller.
- 12.3 Governing Law. The Contract shall be governed and construed under the laws of the State of North Carolina, excluding its choice of law rules, and including, where applicable, the United Nations Convention on Contracts for the International Sale of Goods.
- 12.4 Arbitration. Any dispute between the parties regarding the meaning of the terms of the Contract or the parties' performance under the Contract will be submitted to binding arbitration before the American Arbitration Association or some other arbitration provider mutually agreed upon by the parties. Any arbitration between the parties will be conducted pursuant to expedited procedures for the resolution of commercial disputes utilized by the American Arbitration Association or by the mutually agreed upon arbitration provider, unless the amount in controversy in the arbitration is in excess of \$250,000.00, in which case the normal commercial dispute resolution procedures of the American Arbitration Association or the mutually agreed upon arbitration provider will be used. Either

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party may request arbitration by giving written notice by certified mail or overnight mail to the other party, with this written notice setting forth the nature of the dispute and the amount in controversy. The parties will then have five (5) business days from the receipt of this notice to agree upon an arbitration provider other than the American Arbitration Association. If no agreement regarding another arbitration provider is reached within this period, the party requesting arbitration will then submit a demand for arbitration to the other party and the American Arbitration Association. This arbitration provision does not prevent either party from seeking injunctive relief as appropriate in a court of competent jurisdiction with regard to the other party's breach of the Contract. Once injunctive relief is granted or denied by a court of competent jurisdiction, the underlying dispute between the parties will be submitted to arbitration consistent with the procedures of this paragraph. The parties agree that the award of the arbitrator(s) shall be the sole and exclusive remedy between them regarding any claims, counterclaims, issues or accountings presented or pled to the arbitrator(s); that it shall be made and shall promptly be payable in U.S. dollars free of any tax, deduction or offset; and that any costs, fees or taxes incident to enforcing the award shall, to the maximum extent permitted by law, be charged against the party resisting such enforcement. The award shall include interest from the date of any damages incurred for breach or other violation of the Contract, and from the date of the award until paid in full, accrued at a rate one and one-half percent (1.5%) per month. Each party shall bear its own arbitration costs and expenses. Nothing herein contained shall be deemed to give the arbitrator(s) any authority, power or right to alter, change, amend, modify, add to or subtract from any of the provisions of the Contract including, without limitation, Sections 7 and 8 of these Terms and Conditions of Sale.

12.7 Nonassignability; Binding on Successors. Any attempted assignment of the rights or delegation by Purchaser of its obligations under the Contract, whether by operation of law or otherwise, shall be void without the prior written consent of the Seller. In the case of any permitted assignment or transfer of or under the Contract by Purchaser, the Contract shall be binding upon, and inure to the benefit of, the successors, executors, heirs, representatives, administrators and assigns of Purchaser.

12.8 Survival of Obligations. Any termination of the Contract shall not affect any monies owing or obligations incurred by either of the Parties prior to the effective date of the termination. The representations and warranties set forth in these Terms and Conditions of Sale shall survive expiration or termination for any reason of the Contract.

12.5 Severability. In the event any provision of the Contract is held to be invalid or unenforceable, the valid or enforceable portion thereof and the remaining provisions of the Contract will remain in full force and effect.

12.6 Waiver. A failure by either Party to insist on performance of any of the terms of the Contract, a failure by either party to exercise any right or privilege, or a waiver of any breach hereunder shall not constitute a waiver of any other right or privilege, whether of the same or similar type.

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The Royal League



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