

DRAFT OF HIRE AND PURCHASE AGREEMENT

This Agreement is made at ... this ... day of ... between M/s. AB & Co. Ltd., a Company having registered office at ... hereinafter referred to as 'the Company' of the One Part and Mr.... of... hereinafter referred to as 'the Hirer' of the Other Part.

WHEREAS, the Company is the owner of certain machinery and equipment Intended for manufacturing ... and which is more particularly described In the Schedule hereunder written.

AND WHEREAS, the Hirer has requested the Company to give the said machinery and equipment on hire to enable the Hirer to carry on the business of manufacturing ... with an option to the Hirer to purchase the same.

AND WHEREAS, the Company has agreed to do so on the following terms and conditions agreed upon between the parties.

NOW, It Is Agreed by And Between The Parties As Follows:

1. The Company agrees to give and deliver over to the Hirer the said machinery and equipment described in the Schedule hereunder written on hire on the terms and conditions hereinafter mentioned and pursuant to the said Agreement the Company has delivered possession of the said machinery and equipment to the Hirer.
2. The Hirer confirms that he has inspected the said machinery and equipment before taking possession and is satisfied that it is In good and working condition and acknowledges delivery of the same to him by the Company and agrees to hold it on the terms and conditions hereinafter mentioned.
3. The hire-purchase price of the said machinery and equipment fixed at Rs. ... exclusive of the deposit amount mentioned in the next clause and the cost price fixed at Rs. ... is accepted by both the parties hereto.
4. The Hirer has paid to the Company on the execution of this agreement a sum of Rs. ... as deposit or earnest which will be adjusted against the hire purchase price of the said machinery and equipment, If the Hirer exercises the option to purchase the same as hereinafter mentioned. If the Hirer does not exercise the said option or the agreement is terminated before the exercise of such option then the said amount of deposit will be returned to the Hirer by the Company on the expiration or sooner determination of this agreement, subject to deduction of any claim which the Company may have against the Hirer under or by virtue of this agreement or in law, including the cost price of the said machinery and equipment.
5. During the pendency of this agreement the Hirer shall pay to the Company by equal monthly installments a sum of Rs. ... as hire charges, in advance, the first of such payments to be made on the execution of this agreement and each subsequent monthly payment will be made on or before the ... day of such each succeeding month hereafter. The payment will be made at the registered office of the Company by cash only or by cheque in the name of the Company.

6. If the Hirer fails to pay any monthly installment of hire charges on the due date thereof then the Hirer shall be liable to pay interest thereon at the rate of per cent per annum from the date of default till payment thereof. This is however, without prejudice to the right of the Company to terminate this agreement for default in payment of the monthly Installments as hereinafter provided.

7. During the pendency of this agreement the Hirer shall keep the said machinery and equipment in good working condition and shall maintain It properly as a man of prudence would do and shall replace any of the parts thereof lost or disused or out-of-use or broken.

8. The Hirer agrees to indemnify and keep Indemnified the Company against any loss the Company may suffer due to any damage done to the said machinery and equipment by any reason whatsoever.

9. The Company through its authorised representative shall be entitled to inspect the said machinery and equipment during working hours at any time and for that purpose to enter Into the premises where the said machinery and equipment will be installed or kept and the Hirer shall allow the Company and its representative to do so.

10. The Company does not give any warranty as to the quality or fitness of the mechanism of the said machinery and equipment and will not be responsible or liable for any defect found therein.

11. The Hirer proposes to install the said machinery and equipment at and agrees and undertakes not to remove the same to any other place without the prior written consent of the Company. The Hirer shall not remove the nameplates fixed to the machinery for the purpose of identification of the property of the Company during the pendency of this agreement.

12. The Hirer shall keep the said machinery and equipment insured in the name of the Company with any recognised Insurance Company and shall pay the premium as and when due and payable regularly. The Policy of Insurance will be handed over to the Company and the Hirer shall produce the premium receipt or furnish true or Xerox copy thereof to the Company from time to time. If the Hirer fails to insure the said machinery and equipment or fails to pay the premium at any time the Company will be entitled to insure (without prejudice to Its other rights under this agreement) the same or to pay the premium as the case may be and the costs incurred by the Company will be paid by the Hirer to the Company as and when demanded.

13. The Hirer shall use the said machinery and equipment for the manufacture of and not for any other purpose without the prior consent of the Company.

14. The Hirer shall not give the said machinery and equipment on hire or on any other basis or to allow it to be used by any other person without the prior written consent of the Company and shall not hypothecate or pledge the same with any person to secure payment of any moneys.

15. The ownership or property of the Company in the said machinery and equipment will continue to remain unaffected during the pendency of this agreement and the Hirer shall be

considered as the bailee thereof with all the duties and obligations of a bailee in law, until the Hirer exercises his option to purchase hereinafter provided.

16. If any taxes or other dues are required to be paid in respect of the said machinery and equipment, the same will be paid by the Hirer and if any permit or licence to use the said machinery and equipment is required to be obtained from any Government or any local authority the same will be obtained by the Hirer at his costs and responsibility.

17. If the said machinery and equipment or any part thereof goes out of order and requires repairs of a substantial nature the work of repairs will be carried only through a mechanic appointed by the Company and the Hirer shall pay his charges.

18. The Hirer shall be liable to pay the hire charges every month notwithstanding whether the said machinery and equipment is working or remains idle for want of work or for any other reason.

19. This agreement shall be deemed to have commenced from the date hereof and will remain in force for a period of... years from the date hereof that is up to the day of ... and (unless the Hirer exercises the option to purchase as hereinafter provided), on the expiration of the said period or earlier termination thereof as hereinafter provided the Hirer shall hand over back the said machinery and equipment in good working condition subject to normal wear and tear at his costs at the place of business of the Company or as may be directed by the Company provided that, the Hirer shall continue to be liable to pay hire charges until the said machinery and equipment is actually delivered over to or taken over by the Company.

20. If the Hirer commits breach of any term of this Agreement or fails to pay any two monthly installments of hire charges, the Company will have the right to terminate this agreement by giving one month's prior notice to that effect and unless in the meanwhile the breach is remedied and the hire charges are paid as the case may be. this agreement shall, on the expiration of the notice period stand terminated. If the agreement is terminated as aforesaid the Hirer's option to purchase as hereinafter mentioned shall stand forfeited or cancelled.

21. If the Hirer is adjudged insolvent or he allows the said machinery and equipment to be attached in execution of a decree or an order of a court or for recovery of any Government dues or if a Receiver thereof is appointed by Court or any creditor, this agreement, on the happening of any such event shall stand terminated.

22. The Hirer shall have also a right to terminate this agreement at any time by giving not less than fourteen days' prior notice to the company to that effect but in such a case the Hirer will be liable to pay to the Company the amounts which have accrued due towards hire charges have not been paid and the amount of hire charges payable for the period from the date of termination till the stipulated period of this agreement would expire as and by way of compensation for the loss suffered by the Company, subject to the provisions of S. 10 (2) of the Hire Purchase Act.

23. On the termination of this agreement by efflux of time or earlier termination by the Company or the Hirer or otherwise as aforesaid, the Company shall return to the Hirer the

amount of deposit less the amounts payable by the Hirer to the Company for hire charges or otherwise and the expenses to be paid or Incurred by the Hirer in terms of these presents and not paid by him.

24. If the said machinery and equipment is lost or wholly destroyed or damaged beyond repairs by fire, floods or earthquake or for any other reason, the Hirer shall make good the loss suffered by the Company, the loss being the market price of the machinery and equipment then existing or the hire-purchase price mentioned in clause (3) above, whichever is more, Provided that, the amount of Insurance claim received if any will be adjusted against such price.

25. The Hirer shall have the option to purchase the said machinery and equipment, and the option shall be exercised by giving one month's prior notice to the Company. The option to purchase can be exercised from the date of expiration of the stipulated period of this agreement or from any earlier date. In the former case the Hirer shall be liable to pay to the Company a sum equal to the Hire purchase price of the machinery and equipment mentioned in Clause (3) above, less the aggregate amount of installments paid up to that date or Rupee one whichever is higher. In the latter case that is if the option to purchase is exercised before the expiration of the period of this agreement, the Hirer shall be liable to pay a sum equal to the said Hire-Purchase price or the balance thereof payable by monthly installments of hire charges up to the date of the stipulated period of the agreement as reduced by a rebate which will be equal to two third of an amount which bears to the hire purchase charges the same proportion as the balance of the hire purchase price not due till then bears to the hire purchase price.

26. On the Hirer exercising the option and paying the price of the machinery and equipment and other moneys as mentioned in clause (25) above to the Company the sale of the said machinery and equipment to the Hirer shall be deemed to be complete as on the date the option comes into operation. But until then, the Company will continue to be the owner thereof. If, however, the Hirer fails to pay the amount due and payable to the Company as aforesaid at or before the date from which the option is to become effective, this agreement shall stand terminated and the Hirer will return the machinery and equipment to the Company forthwith in good working condition as aforesaid.

27. Notwithstanding the completion of sale of the machinery and equipment, the Company shall have a lien or charge on the same for all the moneys due and payable by the Hirer under this Agreement.

28. The Company declares that

- a. The Hirer shall have and enjoy quiet possession of the said machinery and equipment during the subsistence of this agreement.
- b. That the said machinery and equipment is free from any charge or encumbrance in favour of any third person.
- c. The Company has a right to sell the said machinery and equipment.

d. The said machinery and equipment is new/second hand.

29. The Hirer shall not assign the benefits and rights under this Agreement to any other person without the prior written consent of the Company which consent shall not be unreasonably withheld or refused.

30. If on the determination of this agreement by efflux of time or otherwise, the Hirer fails to deliver the said machinery and equipment to the Company, without there being any dispute the Company will be entitled to file a suit or take other proceedings to recover possession thereof and the Hirer will be liable to pay all the costs, charges and expenses incurred by the Company, in that behalf subject to any order of the Court.

31. If any dispute arises between the parties out of or in connection with the agreement whether in the nature of interpretation or meaning of any term hereof or as to any claim by one against the other, or otherwise the same shall be referred to arbitration of a common arbitrator if agreed upon. otherwise to two arbitrators one to be appointed by each party hereto and the arbitration shall be governed by the Arbitration Act, 1940.

THE SCHEDULE ABOVE REFERRED TO

(List /Description of machinery & equipment)

Signed and delivered for and

on behalf of M/s. A B & Co. Ltd., by Mr. ... a Director of the

Company duly authorised by a Resolution of the Board of Directors dated ...

in the presence of ...

Signed and delivered by the with in named Hirer Mr. in the presence of ...