

HIRE PURCHASE AGREEMENT FOR SECURING FINANCE

WITH GUARANTEE

THIS AGREEMENT is made at this day of between M/s. A B C & Co. Ltd., a Company having its registered office at hereinafter referred to as 'the Company' of the First Part and Mr. A. carrying on business at hereinafter referred to as 'the Hirer' of the Second Part and Mr. B residing at hereinafter referred to as the 'Guarantor' of the Third Part;

WHEREAS the Hirer is carrying on business of manufacturing... and for the purpose of his business, he has agreed to purchase and import a machine the particulars of which are given in the Schedule hereunder written and which is hereinafter referred to as the said 'Machine'.

AND WHEREAS the Hirer has obtained import License for importing the said machine.

AND WHEREAS the Hirer is in need of a sum of Rs to pay the price by opening a Letter of Credit in favour of the foreign seller through the Hirer's Bankers.

AND WHEREAS the Hirer has requested the Company to advance the said amount as well as all moneys required for payment of Import and Custom duties and other charges required to clear the machine from the docks, to enable him to open the Letter of Credit and paying the other duties and charges and which the Company has agreed to do on -the following terms and conditions and agreed to by the Hirer.

NOW IT IS AGREED BY AND BETWEEN THE PARTIES AS FOLLOWS:

1. The Company has agreed to advance to the Hirer a sum of Rs. ... with interest thereon at the rate of Rs. ... per cent per annum. The Hirer has executed in favour of the Company a Promissory note for the said amount and at the request of the Hirer the Guarantor has agreed to guarantee the repayment thereof, subject to the terms hereof.
2. The Company shall pay the said amount to the Bank of being the Bankers of the Hirer, direct to enable the Bank to issue a Letter of Credit for the said amount and to enable the Hirer to import the said Machine. The Company shall also pay an amount not exceeding Rs for payment of all Customs and Import duties and other charges required to clear the said machine.
3. The said machine shall be deemed to be sold by the Hirer to the Company on payment of the said amount to the said Bank as well as the amount required to be paid for Custom and Import duties and other charges for clearing the said machine.
4. On the importation of the said Machine the Hirer shall clear the same from the customs and other authorities by paying all custom and import duties and other charges and shall hold the said machine belonging to the Company as taken on hire from the Company with an option to purchase the same, on the following terms.
5. This agreement shall be effective since the time the said machine is imported and taken possession of by the Hirer on behalf of the Company as aforesaid.
6. If by any chance the said Machine is not imported, this agreement shall be null and void and the Company will be entitled to claim the amount

advanced by Company from the Hirer and the Guarantor as a debt and the guarantee hereby given,

7. The Hire-purchase price of the said machine is fixed at Rs.. .being the amount agreed to be advanced by the Company as aforesaid and inclusive of interest payable by the Hirer for the hire period.
8. During the pendency of this agreement the Hirer shall pay to the Company by thirty-six equal monthly instalments 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 instalment will be made on or before the ... day of 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.
9. If the Hirer fails to pay any monthly instalment 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 instalments as hereinafter provided.
10. During the pendency of this agreement the Hirer shall keep the said machinery in good working condition and shall maintain It properly as a man of prudence would do and shall replace any part thereof lost or disused or out-of-use or broken.
11. 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 machine by any reason whatsoever.

12. The Company through Its authorised representative shall be entitled to inspect the said machine during working hours at any time and for that purpose to enter into the premises where the said machine will be Installed or kept and the Hirer shall allow the Company and its representative to do so.
13. The Company does not give any warranty as to the quality or fitness of the mechanism of the said machine and will not be responsible or liable for any defect found therein.
14. The Hirer proposes to install the said machine 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 machine for the purpose of identification of the property of the Company during the pendency of this Agreement.
15. The Hirer shall keep the said machine 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 copy thereof to the Company from time to time. If the Hirer fails to insure the said machine or fails to pay the premium at any time the Company, without prejudice to its other rights under this agreement, will be entitled to insure 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.
16. The Hirer shall use the said machine for the manufacture of and not for any other purpose without the prior consent of the Company.

17. The Hirer shall not give the said machine on hire or on any other basis to or 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.
18. The ownership or property of the Company in the said machine 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.
19. If any taxes or other dues are required to be paid in respect of the said machine the same will be paid by the Hirer and if any permit or license to use the said machine is required to be obtained from any Government or local authority, the same will be obtained by the Hirer at his costs and responsibility.
20. If the said machine 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.
21. The Hirer shall be liable to pay the hire charges every month notwithstanding whether the said machine is working or remains idle for want of work or for any other reason.
22. This agreement shall be deemed to have commenced from the date hereof and will remain in force for a period of three years from the date hereof that is upto 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 machine 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 machine is actually delivered over to or taken over by the Company.

23. If the Hirer commits breach of any term of this Agreement or fails to pay any two monthly instalments 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.
24. If the Hirer is adjudged insolvent or he allows the said machine attached in execution of a decree or any order of a court or for recovery of any Govt. 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.
25. The Hirer shall have also a right to terminate this agreement at any time by giving one month's prior notice to the Company to that effect but in such a case the Hirer will be liable to pay to the Company an amount equal to the 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.
26. On the termination of this agreement by efflux of time or earlier termination by the Company or by the Hirer or otherwise as aforesaid without or before the Hirer exercising his option to purchase the said machine the

Company shall become the absolute owner of the said machine and the same shall be handed over by the Hirer to the Company forthwith.

27. If the said machine is wholly destroyed or damaged beyond repairs by fire, flood 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 machine then existing or the price mentioned in clause (7) above mentioned, whichever is more Provided that, the amount of Insurance claim received if any will be adjusted against such price.
28. The Hirer shall have the option to purchase the said machine and the option shall be exercised by giving one month's prior notice to the Company. The option to purchase can be exercised as 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 machine mentioned in Clause (7) above, less the aggregate amount of instalments paid upto that date or Rupee one whichever is higher.
29. If the option to purchase is exercised to be effective 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 instalments of hire charges upto 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 be hire charges the same proportion as the balance of the hire purchase price not due till then bears to hire purchase price.
30. On the Hirer exercising the option and paying the price of the machine and other moneys as mentioned in clauses 28 or 29 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 machine to the Company forthwith in good working condition as aforesaid.

31. Notwithstanding the completion of sale of the said machine, the Company shall have a lien or charge on the same for all the moneys due and payable by the Hirer under this Agreement.
32. The Company declares that
 - (a) the Hirer shall have and enjoy quiet possession of the said machine during the subsistence of this agreement.
 - (b) That the said machine is free from any charge or encumbrance in favour of any third person.
33. 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.
34. If on the determination of this agreement by efflux of time or otherwise, the Hirer fails to deliver the said machine 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 orders of the Court.

35. The Guarantor hereby guarantees the due performance of this agreement by the Hirer and the payment of all moneys payable by the Hirer to the Company under this agreement and in the event of the Hirer failing to pay the amount becoming due and payable to the Company, the Guarantor shall pay the same as per the demand made by the Company in writing without demur or raising any objection.
36. The said guarantee by the Guarantor is a continuing guarantee and will remain in force until the Hirer exercises his option to purchase the said machine and until the Hirer pays all moneys due and payable by him under this agreement and no indulgence shown to the Hirer by the Company or a facility or concession or time given to the Hirer by the Company will discharge the Guarantor from his liability.
37. 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 or to arbitrators one to be appointed by each party to the dispute and the arbitration shall be governed by the Arbitration & Conciliation Act, 1996.

THE SCHEDULE ABOVE REFERRED TO
(Description of the machine)

Signed and delivered for and on
behalf of M/s. A B C & Co. Ltd., by Mr. ... a Director of the
Company, duly authorised by Resolution of the Board of Directors dated ... in the
presence of ...

Signed and delivered by the withinnamed Hirer Mr.

... in the presence of ...

Signed and delivered by the withinnamed Guarantor Mr. ... in the presence of ...