

KNOW-HOW CONTRACT BETWEEN
SHANGHAI FOREIGN TRADE CORPORATION
WITH SHANGHAI ENGINEERING MACHINERY WORKS
AND
DELMAG-MASCHINENFABRIK REINHOLD DORNFELD GMBE + CO
DECEMBER 9TH, 1984

CONTRACT NO: 84MS195-5579CD
DATE: DECEMBER 9TH, 1984 BY

And between:

SHANGHAI FOREIGN TADE CORPORATION WITH SHANGAI ENGINEERING
MACHINERY WORKS (HEREINAFTER called the “party A”) of China, and
DELMAG MASCHINENFABRIK REIHOLD DORNFELD GMBH + CO.
(HEREINAFTER called the “PARTY B”) of Esslingen, West Germany.

Whereas Party B possesses Know-how as more specifically defined herein,
(HEREINAFTER called “KH” for the design, manufacture, installation, maintenance and
utilization of diesel powered hammers for portions of its models (HERINAFTER called
“CONTRACT PRODUCTS”) as more specifically defined herein;

Whereas Party B has the right and the desire to license said KH to Party A to
manufacture in Shanghai, China and maintain portions of the Contract Products and to
sell and install and inspect and test the Contract Products as set out herein for the use in
China and abroad.

Whereas Party A desires to manufacture in Shanghai, China and maintain portions
of the Contract Products and sell and install and inspect and test the Contract Products by
using the kh of Party B.

Whereas party A and Party B desire to enter in a mutual, long-term cooperation
and through friendly consultation have entered this Contract under the terms and
conditions as follows:

1. DEFINITIONS

For the purpose of this contract, the parties agree upon the following definitions
and additions to the above definitions.

- 1.1 The “Contract Products” shall mean the products to be manufactured by Shanghai Engineering Machinery Works by using the KH and technical documentation of Party B and under Party B’s License and which reach Party B’s product quality standards. The “contract products” are identified and detailed in Appendix A. There is not including in any manner of for any reason any other drillings of Party B and other products of Party B. “Contract Products” are to be marked with Party B’s Trademark as outputted in Article 9 of this Contract.
- 1.2 The “Parts” and “Components” shall mean the parts and components, which Shanghai Engineering Machinery Works has purchased and will purchase for Party B and later on shall be manufactured by itself by using the KH under the exclusive license of Party B.
- 1.3 The term “KH” shall mean and know-how; documents, manufacture and packaging drawings, quality standards, engineering and production specifications, manuals, applicable process of manufacture and manufacturing techniques, test system specifications and other data relating to the manufacture and maintenance of the portions of the Contract Products and the use, testing, installation, marketing and sale of the Contract Products including the documents of Appendix C attached hereto and incorporated herein by reference. The term KH shall also include the method of calculation stability of driving structure and the wave equation currently used by Party B and packing box measurements and DIN Standards and the specifications of all parts which Party B is manufacturing in its facilities and purchased parts from other sub suppliers. This is also including the calculation formulas and data for designing of Contract Products.

2. CONTENT AND SCOPE OF THE CONTRACT

- 2.1 Party A agrees to acquire from party B, and Party B agrees to grant to Party A, and exclusive license to use the KH of Party B for manufacturing and sale, and transfer the KH of Party B to Party A for maintenance, installation, inspection, testing, and application of the Contract Products in China.

- 2.2 The KH licensed by Party B to Party A means the complete technical information of party B in German and in Metric system unites of measures.
- 2.3 During the term of this Contract, party A will buy Parts from Party B as per the Appendix B attached hereto or as required by Party A. The prices for the Parts shown in Appendix B can only be taken as a reference. Further, party A recognizes that Party B purchases some of the Parts from other Party B's sub suppliers, for example: bolts, nuts, rubber products, winches, hydraulic components, etc. so that Party B is not in the position to transfer the KNH for manufacturing of these purchased parts except that Party B shall supply to Party B the Specifications of these Parts.
- 2.4 The Parties both agree that the contract Products and Parts manufactured by Party A in Shanghai, if their quality met the product standards of Party B, can be exported to the world market.
- 2.4.1 If Party A exports the Contract Products and Parts without notifying party B, Party A shall not use Party B's trademark, and therefore, party B can not or will not get any commission from those exports;
- 2.4.2 If Party A exports the Contract Products through party B, or Party B agrees to place orders to party A, then those Contract Products available for export can use Party B's trademarks according to Party B's request. In this case, Party A agrees that party B will and can have a favorable prices of those orders and Party B can make certain percentage of sale commission on the export price based upon the prices Party A quotes to Party B. But, because of the mutual benefits, both parties all agree to keep the total prices for export of the Contract Products as much competitive as possible. If Party B wants to place orders through its agent, party A shall not permit and will not pay any commission to them, but only to Party B.
- 2.5 Party B agrees to supply party A the KH for manufacturing of parts and offer certain training both in west Germany and in China in order to enable Party A

to know how to manufacture the parts at Party A's Facilities (excluding purchased Parts) during the effective period of the Contract.

2.6 Party B shall be responsible for the training of Party A's qualified technical personnel in Party B's relevant facilities and shall also use best reasonable effort to enable party A's technical personnel to master the designing, manufacturing, assembling, testing, inspecting, painting and maintaining licensed hereto (details as per Appendix D to the Contract attached hereto and incorporated herein by reference for all purposes). The qualified technical personnel shall either be fluent in German, or Party A shall supply a competent technical translator fluent in German (1) to translate at all training sessions and (2) to translate all documents used in the training prior to the training.

While Party A's qualified technical personnel are being trained in Party B's facilities, the costs of the midday meal and local transportation to and from lodgings from and to the training site will be for the account of Party B. All other expenses, including travel, living expenses, lodging and meals, will be at party A's costs.

2.7 Party B shall send such of its qualified technical personnel as party B and Party A mutually agree to assist Party A in solutions of such problems as may be encountered by Party A in assembling, manufacturing, inspection and testing licensed in this contract (details as per Appendix E to the contract attached hereto and incorporated herein by reference for all purposes). Party A shall supply competent, technical translators fluent in German for all such visits. For Party B's qualified technical personnel, the costs of the midday meal and local transportation to and from lodgings from and to the site of visit will be the account of Party A. All other expenses, including travel, living expenses, lodging and meals will be (1) at Party B's account for six (6) trips of seven (7) working days duration each, except traveling time, such trips accruing during the first four (4) contract years starting from the day of the receipt of all documentation by Party A and (2) shall be at the costs of Party A, as set out in Appendixes D and E, for another trips.

- 2.8 Party A undertakes to manufacture the portions of the Contract Products by using Party B's KH only in their own factories in China, and sell same for use in China except as otherwise provided in this Contract. Party B grants Party A the right to communicate to their subcontractors in China the KH of manufacturing of apart which can not be made in Party A's factories, so long as these Parts according to Party B's KH will be delivered exclusively to party A. Party A and subcontractors shall enter into a confidential agreement satisfactory to party B in its sole discretion protecting its confidentiality of the KH. Party B undertakes to assist Party A to manufacture the portions of Contract Products and parts provided in this contract by using party B's KH up to the quality of Party B's standards within tow (2) to four (4) contract year as requested by Party A.
- 2.9 The list of prices for parts set out in Appendixes A and B may serve as reference for the orders that Party A may place from time to time with Party B subject to that all orders will be placed not less than six (6) months prior to purchase and mutually acceptable terms and conditions. In emergency situations, Party B will do its best to supply to the need of Party A but the prices may be higher for expediting. Both Parties agree the prices should be changeable according to the market situations that Party B may maximally raise its list price to party A at the end of each contract year by an amount equal to five (5) percent of its list prices for the then ending contract year provided market prices increased.
- 2.10 China National Machinery Import and Export Corporation agrees to purchase for Party B all their purchases of the Contract Products and Parts and will pay for same and order three million German Marks (3,000,000DM) of Products for Party B in separate Contract while signing the Contract and will receive delivery and will not cancel the orders.
- 2.11 Verification and Acceptance of the KH for manufacturing the Contract Products and Parts shall be according to Article 5 of this Contract.
- 2.12 Duration and termination of this contract see Article 15 of this contract.

- 2.13 After the effective date of this contract, Party B shall supply to Party A all information and requirements concerning the trademarks, service marks, patents as more specifically defined in Article 9 and Appendix C.
- 2.14 During the term of this Contract, Party A shall have no right and shall not use the KH in any manner with regard to any goods, other than the Contract products. After the term of this Contract, Party A shall continue to a perpetual non-exclusive license or right, royalty free to use the KH for manufacture and maintenance of the portions of the Contract Products and for installation and inspection and application of the Contract Products for use in China and abroad and Party A shall use the KH for no other purposes.
- 2.15 During the term of this contract, Party A shall use their best efforts to cause every other entity not under their control in China who wishes to make Products under KH license or buy Products to obtain the same from Party B and shall intensively advertise the Contract Products in China.
3. DELIVERY OF THE DOCUMENTATION
- 3.1 Party B shall, according to the delivery schedule and contents stipulated, which dates shall be measured from the effective date of this Contract, in Appendix C to the Contract, deliver the Documentation to Shanghai Airport on CIF basis by air freight delivery addressed to Party A.
- 3.2 Within twelve (12) hours after the dispatching each lot of documentation, Party B shall notify Party A by cable or telex use the contract number, number of pieces, weight, flight number and expected date of arrival at Shanghai and at same time airmail to Party A two (2) copies each of the air way bill, insurance certificate, and commercial invoices five (5) copies and detailed list of the documentation sent. The date stamped by the air transportation agency at Shanghai Airport shall be taken as the actual date of delivery.
- 3.3 If the documentation is found lost or damaged during air transportation, Party B shall renew the supplying free of charge of the documentation within the shortest possible time but not later than thirty (30) days after receiving from Party A written notice of non-receipt.

3.4 The documentation shall be packed in strong wooden cases suitable for long distance transportations, numerous handling, rain-proof and anti-moisture.

3.5 On the surface of each package of the documentation, the following items shall be marked in English:

(a) Contract NO. 84MS195-5579CD

(b) Destination: Shanghai, China

(c) Shipping Mark: 84MS195-5579CD

(d) Weight (kg):

(e) Case/Piece No:

(f) Consignee: Shanghai Engineering Machinery Works

1057 Jiang Pu Road, Shanghai, China

3.6 Inside the cases, there will be two copies of a detailed list of documentation describing item no., documentation code (Drawing No), and name of Documentation and pages of Documentation. This list of Documentations sent before delivery and the list of Documentation sent in cases must be in conformity with each other.

4 MODIFICATIONS AND IMPROVEMENTS OF THE TECHNICAL DOCUMENTATION

4.1 If the documentation provided by Party B is not applicable to Party A's actual production conditions (such as design standards, materials, production facilities and the like), Party B will use best reasonable efforts to assist Party A in modifying to Documentation and confirm the same.

4.2 During the four (4) years duration of the contract and additional two (2) years duration which may or may not be decided by either of the Parties and notified to each other one (1) year before the termination of the contract, supply free of charge additional documentation concerning any modification and improvements of contract Products developed by or disclosed to either of the Parties including modifications and improvements related to the KH of Parts which Party B is manufacturing and later on Party A manufacture in its own factory by using Party B's KH. Both Parties shall have the exclusive, royalty free right in the world to use modifications and improvements of the

other Party for the Contract Products and Parts during the term of this contract and shall after the term have non-exclusive worldwide perpetual royalty free right to use the supplied modifications and improvements of the other Party for the contract Products and Parts and keep such modifications and improvements in confidentiality.

5. VERIFICATION AND ACCEPTANCE

- 5.1 In order to inspect the correctness and reliability of the Documentation supplied by Party B, a verification test for the first unit of each model of the hammer made by Party A shall be jointly carried out in Party A's factory with the participation of Party B's technical personnel. Party B shall give its recommendation for testing the Contract Products made by Party A with the Documentation but such recommendations shall not be considered as a part of the documentation. The final determination of the methods of the performance of the test shall be mutually decided by the Parties after training of the Party A's personnel about the Contract Products to be tested.
- 5.2 If the verification test demonstrates that the performance of the hammer model is in conformity with the performance indices stipulated in Appendix A or other performance test determined in paragraph 5.1 such test determined in paragraph 5.1 such test and hammer model shall be considered qualified and the two Parties shall sign a performance quality certificate in four (4) copies, two (2) for each party, a sample of which is set out in the Appendix F attached hereto and incorporated herein by reference.
- 5.3 If the verification test demonstrates the performance of the hammer model is not in conformity with the performance indices, both Parties shall, through amicable negotiations, make a joint study analyze the causes, and Party A shall with the concurrence of party B take all measures disclosed in the study to eliminate the effects and carry out the second test. When the second test demonstrates that performance is qualified, the two Parties shall sign a performance quality certificate a stipulated in paragraph 5.2.
- 5.4 If the second verification test demonstrates that the performance of the hammer model is not in conformity with the performance indices, both parties shall

through amicable negotiations, make a second joint study, analyze the causes , and Party A shall with the concurrence of Party B take all measures disclosed in the second study to eliminate the effects and carry out a third test.

5.5 If the third test fails again, and if Party B's documentation is solely responsible for failure of all the three tests, Party A has the right to terminate the contract at its discretion and to make claims as stipulated in paragraph 6.6, otherwise, Party A shall with the concurrence of party B continue, at its sole cost and expenses, including all costs of party B, to take measures to eliminate the effects until the hammer model passes the verification test, and shall manufacture no more hammer of this model until the first unit has passed the verification test successfully.

6. GUARANTEE AND CLAIMS

6.1 Party B guarantees that the KH of party B and Documentation supplied by Party B shall be of the latest technical documentation and technology being used by Party B itself.

6.2 Party B guarantees that the Documentation Supplied by party B shall be complete, correct, legible, and dispatched in accordance with this contract; provided, however, the sole remedy of Party B of this Paragraph 6.2 shall be that set out in Paragraph 6.3, and Appendix.

6.3 If the Documentation supplied by party B is found not in conformity with the stipulations in paragraph 6.2, Party B shall, within the shortest possible time but not later than the thirty (30) days after the receipt of the party A's written notice of non-performance, renew free of charge the supplying to party A of Documentation including any correction necessary to make it conform to the stipulations of Paragraph 6.2. Party A recognizes that Party B has no experience in license of technology and never previously prepared Documentation for use by others. Accordingly, Party A shall show leniency and considerations for the task problems of Party B in the preparation of the Documentation and in any correction of the same. In the event party B is showing good faith efforts to perform under this contract, Party A shall in good faith extend the time set out in

this contract for performance by party B in conformance with such good faith efforts.

- 6.4 Whenever the delay of the Documentation delivery exceeds three (3) months from the schedule set out in the Appendix C, Party A shall be entitled to terminate the contract at its discretion. If party B fails to dispatch the Documentation within the stipulated period (see Appendix C), Party B shall pay penalties to party A at the following rates:
- A: 0.5% of the total Contract Price for each full week delay within 3 to 6 weeks;
 - B: 0.75% of the total Contract Price for each full week delay exceeding 3 to 6 weeks.
- 6.5 Should this contract be terminated for any reason except expiration of the term of the contract, Party A shall within thirty (30) days deliver all Documentation including all copies, in its possession containing KH of Party B to Party A. If Party A terminates the contract (1) for uncured breach of the Contract by Party B, and not by expiration, except as provided in (a) of the Article 8.1 below, the transfer fee, paid by Party A upon delivery of the documentation plus ten percent (10%) P.A. simple interest thereon from the date of bread, and two (2) for uncured intentional, malicious breach of the contract by Party B, and not by expiration, Party B shall refund the transfer fee paid by Party A upon the delivery of the Documentation plus ten (10) percent P.A. simple interest thereon from the date of payment by Party A.
- 6.6 In Accordance with the stipulation in Paragraph 5.5, if the test fails three times, and Party B's Documentation is proven to be solely responsible and Party A can not start Norman production, and as the result, the contract has to be terminated Party B shall, in accordance with the stipulations in Paragraph 5.5, refund the KH transfer fee plus ten percent (10%) simple interest thereon from the date of the payment.
- 6.7 Except as otherwise provided herein, each party hereby promises and guarantees at all times to defend, hold harmless and indemnify the other against any and all claims and causes of action which may arise from the manufacture, installation or

service of , or customer support for or other business with regard to, the Products make, installed or serviced as the case may be by the indemnifying party.

- 6.8 Party A has the right to sue anyone for any infringement by any third party in China of any Party B's trademarks, service marks, patents, copyrights or unauthorized use of KH of Party B for Contract Products,
- 6.9 Within then (10) days after being informed of any litigation, concerning Contract Products, Party A shall notify Party B of such a litigation of proceedings and shall supply all information available concerning litigation.
- 6.10 Neither of the parties hereto shall under any circumstances be considered to be an employee or agent of the other, and none of the salesmen or other employees of either party hereto shall be considered for any purposes to be employees of the other. Each of the parties hereto shall assume full responsibility for its own account to and for all of its employees for their payment, either by salary, commission. Or otherwise, and for all liability, worker's compensation, unemployment insurance and other so-called social security acts, whether federal, state or local in origin.
- 6.11 Party A will use its best efforts to obtain and maintain adequate liability insurance coverage in China, if possible, with respect to its Contract Products made by Party A and its business and will cause Party B to be named as an additional insured party with respect to such liability insurance coverage. Party A shall immediately notify Party B if it cannot obtain such insurances.
- 6.12 The warranty period for KH of Party B to Party A is 12 months after the acceptance of that KH.

7. PRICING

- 7.1 Party A shall pay party B an amount of Two Million and Nine Hundred Thousand German Marks (2,900,000.00DM) including 10% license Tax for total KH transfer fee according to the terms of the Contract.

8. PAYMENT AND PAYMENT CONDITIONS

- 8.1 All the payment to be made by Party A to Party B under the Contract shall be effected in West German Marks. The payment shall be effected through Bank of China, Shanghai and Stuttgrter Bank X.G., Account NO. 40441 of party B, P.O.

Box 103, D-700 Stuttgart, Schloss-strasse 20, Telex 723950. If Bank of China does not have a corresponding relationship the Stuttgarter Bank A.G., Party A shall notify Party B of the banks which have such relationship and Party B will notify Party A of the appropriate bank for payment. All the banking charges incurred inside China, including all currency conversions, shall be borne by Party A and all of the banking charges incurred outside China shall be borne by Party B.

Payment are as follows:

1. 50 percent of the total price for payment after delivery of Documentation as set out in Appendix C shall be made by Party A to Party B within thirty (30) days after the receipt of the complete Documentation against the following documents:
 - a. one photocopy of the validated export license issued by the relevant department of the German Government or a letter issued by Party B stating that said export license is not required;
 - b. four (4) copies of commercial invoices covering the percent of the total price indicating the Contract number
 - c. one original and one copy of the sight draft;
 - d. one original and one copy of Airway Bill Indicating freight and insurance prepaid.
 - e. Detailed list of documentation which has been delivered;
 - f. two copies of insurance certificate.
2. Payment for respective percents of the total price shall be made by party A to Party B after completeness of each of the stage as set out in Attachment to the Appendix D and within thirty (30) days after receipt of the following documents:

- a. Four (4) copies of the commercial invoice indicating the contract number;
 - b. One original and one copy of sight draft;
 - c. Two copies of letter signed by Party A and Party B stating that such training stage has been completed.
3. Payment for five (5) percent of total price shall be paid by party A to Party B within thirty (30) days after completion of verification and acceptance as set out in Article 5 of this Contract and receipt of the following documents:
 - a. Four (4) copies of the commercial invoice indicating the contract number;
 - b. One original and one copy of sight draft;
 - c. One copy of the Verification and Acceptance test certificate signed by both Parties.

8.2 In the event Party A defaults in the payment, all expenses incurred by Party B for the ascertainment and collection of the payments and information shall be borne by Party A, and payments to Party B not paid when due shall bear interest at the ten (10) percent annual rate.

8.3 Party A shall pay to Party B all the remaining amount so long as Party B has fulfilled all its obligations stipulated in this contract. But, if not due to the responsibility of Party B, Party A shall still pay to party B the remaining amount not later than four (4) years from the effective date of this contract.

9. INFRINGEMENT AND CONFIDENTIALITY AND TRADEMARK USE

9.1 Party B guarantees that it is the legitimate owner of the Party B's KH supplied to Party A according to the stipulations of the Contract, and that it is lawfully in a position of license Party B's KH to Party A. If any accusation of infringing the right of a third party occurs, Party B shall be solely responsible for dealing with the third party and bear the full attorney fees and any judgments arising there from.

9.2 With regard to use of the marks of Party B with regard to the Contract Products;

- 9.2.1 Party A (1) shall advertise for sale of the Contract Products with party B's trademark, which are manufactured by Party A in China. (2) can use Party B's trademark for the Contract Products which are exported by or through party B in the world market. (3) copies of all advertisement of the Contract Products of party A in China shall be sent to Party B for file.
- 9.2.2 Party A agrees to manufacture, sell install, maintain, and test the Contract Products in accordance with Party B's KH as are furnished to Party A.
- 9.2.3 The marks may be used by Party A only on or with respect to the Contract Products. Party A agrees not to use a mark or other designation identical with or confusingly similar to such marks for other products, except with the express written consent of Party B. Party B shall permit Party A to place its name on the Contract Products.
- 9.2.4 Party A agrees to allow Party B's authorized agent at any and all times during regular business hours to inspect the quality of the contracts and services performed by Party A, with regard to observe whether Party A is complying with KH of Party B and quality standards of Party B. The costs of Party B's personnel for the quality inspection are to be borne by Party B, as well as any damage caused to the Contract Products at Party A's facilities by Party B's employee.
- 9.2.5 Party A recognizes as between party A and Party B the exclusive ownership rights of Party B to all service marks, trademarks and trade names used in connection with the Contract Products except the name of Party A and agrees that all goodwill associated with such belong to, and shall remain the property of Party B.
- 9.2.6 During the time for disclosing improvements set out in this Contract, for all improvements of the parties, (1) if developed by Party B, they will be disclosed as set out in this Contract and will be implemented by both parties, and (2) developed by Party A, they will be disclosed as set out in this Contract and if Party B agrees, will be implemented by both parties, and in either case both parties shall keep the improvements confidential as set out in this Contract.

9.2.7 Party A agrees to and Party A agrees to and party B consents that Party A may mark all of the Contract Products. Party A shall place on all of such Contract Products manufactured and sold by Party A except those exported by Party A themselves, the words “MANUFACTURED BY SHANGHAI ENGINEERING MACHINERY WORKS UNDER LICENSE FROM DELMAG MACHINEFABRIK REINHOLE DORNFELD GMBS + CO, 333LINGEW, FEDERREAL REPUBLIC OF GERMANY” or substantially identical wording. In order to comply with this provision, Party B will submit to Party A drawings of the name plates prints, casting marking practice, and other masters of marking for use by it on the Contract Products. Party A shall, within a reasonable time, make any changes according to Party B’s request.

9.3 All KH of Party B shall be treated as follows:

9.3.1 All KH of Party B shall be deemed to constitute valuable proprietary information of Party B and to have been supplied in confidence and solely for the fuse of Party A as provided herein. Except for the use o f the KH of Party B a provided herein, Party A shall accept and maintain all KH of Party B disclosed to it at any time on a confidential bases unless the KH becomes publicly known caused by Party B.

9.3.2 During the fourth year of the Contract, both parities shall meet to discuss the confidential agreement of KH of Party B after the termination of this Contract.

Party A shall stand on all drawing relating in any way to the Contract Products and Parts supplied by Party A to its subcontractors an customers as part of the sale of the Contract Products as provided herein with the following logo...

“This print is loaned subject to return upon demand on the express condition that it with not be used nor copied in any way detrimental to DELMAG MACHINEFABRIK REINHOLE DORNFELD GMBS + CO”, or its equivalent.

10. TAXES AND DUTIES

10.1 All taxes, customs and duties in connection with the execution and performance of the Contract arising outside Party A's country shall be borne by Party B and all taxes, customs and other duties levied on Party A in connection with the execution and performance of the Contract arising inside of Party A's country shall be borne by Party A.

10.2 In the execution of this Contract, any income made by Party B within China's territory shall be subject to the taxation according to Tax Law of the People's Republic of China. The tax shall be deducted from the payment by Party A, and be paid by Party A to Chinese Tax authorities on behalf of party B and party A shall mail to Party B the receipt for such payment of Tax in order to enable Party B to be exempt from the same tax in P.R. of Germany.

11. FORCE MAJEURE

11.1 Force Majeure here means natural disasters or incidents, which may occur to either of the parties for the execution of the obligations of the Contract such as War, Earthquakes, Flood, Big Fire, and those which beyond control of the parties affected.

11.2 The Party B shall not be held responsible for the delay in shipment or non-delivery of the Documentation due to Force Majeure, which might occur during the process of preparation or in the course of loading or transit. The Party B shall advise the party A immediately of the occurrence mentioned above and within fourteen (14) days thereafter, the Party B shall send by airmail to the Party A a certificate of the accident or the incident of Force Majeure issued by the competent government authorities where the accident or the incident occurs as evidence thereof.

Under such circumstances the Party B, however, is still under the obligation to take all necessary measures to hasten the delivery of the Documentation. In case the accident or incident lasts for more than ten (10) weeks, party A shall have the right to cancel the Contract.

11.3 Either of the parties affected by Force Majeure, if it has sufficient evidence to support, shall be excused for its non-performance of any obligation for a certain period of time, which is equal to the period of the Force Majeure. But, neither of

the parties will be relieved from their obligation to continue performance of the Contract after the ending of such Force Majeure.

11.4 If Force Majeure lasts continuously for a period of 6 months or more, both parties shall consult each other as early as possible and find a way to solve the problem.

12. ARBITRATION

12.1 All disputes in connection with the Contract or its execution thereof shall be settled through friendly negotiations.

12.2 In case no settlement can be reached, the case may then be submitted for arbitration to the Arbitration Committee of the Chamber of Commerce of Sweden in accordance with the Provisional Rules of Procedures promulgated by the said Arbitration Committee. The arbitration shall take place in Stockholm, Sweden and the decision of the Arbitration Committee shall be final and binding upon both parties. Neither of parties shall seek recourse to a law court not other authorities to appeal for revision of the decision.

12.3 There be three (3) arbitrators unless the parties shall other-wise agree. Each party shall nominate and appoint on (1) arbitrator and the two (2) arbitrators so nominated shall nominate the third arbitrator whose nationality shall be Swedish.

13. PERIODICAL MEETINGS

A general meeting shall be held between the party A and party B at least once a year during the term of this Contract with object of:

- (a) Summing up the elapsed year as regards to the manufacture of portions of the Contract Products by Party A and technical assistance matters.
- (b) Exchange of the information concerning the development forecasted in the future concerning the design, the production and maintenance of the Contract Products.
- (c) In addition to the above-mentioned matters, if both parties have concluded a closer cooperation agreement, they can also exchange top secret information in the field of research and developments, design , strategies of technical and commercial developments and other very confidential matters.

14. EXCLUSIVE REPRESENTATION/DISTRIBUTION

- 14.1 Except as otherwise agreed in this Contract, during the term of this Contract, Party A appoints party B as its exclusive Representative/Distributor to solicit orders for the sale of Contract Products with party B's trademark manufactured by or for Party A for customers throughout the world, except china and Contract Products exported without Party B's trademark, with the prices, terms and conditions for distribution both parties mutually agree upon.
- 14.2 Party B shall get a certain percentage of commission from the Contract Products exported through Party B.
- 14.3 Party B agrees that Party A can export itself the Contract Products as long as they meet Party B's quality standards, but not use Party B's trademarks for the Contract products exported by Party A itself. Party B shall not get any commission from such export.
- 14.4 Party A shall sell to Party B the Contract Products at favorable prices, exclusive of packing, freight, customs and the like, made by Party A for the contract Products to any other entity for comparable quantities plus any addition for export required by the government of China. Party A shall consider Party B's opinion on representative and distributor terms and conditions and the parties shall discuss the details when the Contract Products manufactured by Party A are available for export.
- 14.5 Party B shall have no authority, and shall not represent that it has authority, to act as agent at law for Party A to make any agreements, warranties or guarantees on behalf of Party A to bind Party A in any manner, to sign the name of Party A or to receive payments due the party A from customers, it being understood that Party A shall not in any way be bound by acts, representations, or conduct of Party B.

15. EFFECTIVENESS, TERMINATION AND MISCELLANEOUSNESS

- 15.1 The contract is signed by the representatives of both parties on the date set out on the first page hereof. After signing the Contract, both parties shall apply to their respective government authorities and the Board of Directors of Party B for approval. The date of approval last obtained shall be taken as the date of effectiveness of the Contract.

- 15.2 Unless otherwise terminated as set out in this Contract, the Contract shall have initial term of four (4) years from the effective date of the Contract and shall continue thereafter for additional two (2) year terms unless either of the parties shall notify the other of its intent to terminate this Contract at least one (1) year prior to the end of such initial term or any subsequent two (2) year term.
- 15.3 Any kind of termination of this Contract shall not affect in any way the debts and relevant rights and liabilities existing between the two parties, and the debtor shall be debt liable until the party fully will have paid up its debts to the creditor after the termination of the Contract.
- 15.4 The Contract is made out in English text; each party shall hold one copy.
- 15.5 Appendices A-G to the contract shall be considered as an integral part of the contract and have the same effectiveness as the Contract.
- 15.6 Should any of the contents of the Contract be amended supplemented documents in written form shall be signed by the representatives of both parties, and such documents shall form an integral part of the Contract and have the same effectiveness as the Contract.
- 15.7 This Contract shall be binding upon and insure to the benefit of the parties hereto and their successors and assigns; provided however, that no assignment by either party shall be effective without the other party's written consent.
- 15.8 For any such assignment provided in Paragraph 15.7, Party A agrees at its sole cost and expense to obtain all necessary governmental authority of China to assign this Contract and make all payments herein, and Party B agrees at its sole cost and expense to obtain all necessary governmental authority of the Federal Republic of Germany to assign this contract and make all payments herein.
- 15.9 Immediately after the signing of this revised Contract, the previous signed draft shall become null and void simultaneously.
- 15.10 Neither of the parties of this Contract has right to transfer any of the obligations, responsibilities and rights stipulated in this Contract to any third party without the consent from the other party.

16. LEGAL ADDRESS

- 16.1 Party A: Shanghai Foreign Trade Corporation

27 Chungshan Road E.1
Shanghai, China
Telex: 33034 SIMEX ON
Shanghai Engineering Machinery Works
1057 Juang Pu Road
Shanghai, China
Telex: 33102 SIOFU ON Client 307

(All Documentation and other technical documents only to Shanghai Engineering Machinery Works.)

Party B: DELMAG MACHINEFABRIK REINHOLE DORNFELD GMBS
P.O. Box 190
7300 Esslingen A.N.
West Germany
Telex: 7256444

17. FURTHER NEGOTIATIONS

17.1 As long as neither party is in breach of this Contract and the Contract is not terminated, party A and party B agree to contact each other in the near future to discuss a joint venture agreement in Shanghai/China between them of the contract Products and other products of Party B and other hammers and other products developed by Party B and Party A in the future. Any additional meeting shall alternate between Essington and Shanghai, if possible, in that order.

18. FURTHER DOCUMENTS

18.1 PARTY b WILL SUPPLY TO party A the documents set out in Appendix G free of charge, but such documents will be considered extra Documents. Such documents will be prepared within a reasonable time from the effective date of the Contract.

