

Framework Supply Agreement for the procurement of manufacturing materials

between Behr Hella Thermocontrol GmbH
Hansastr. 40, 59557 Lippstadt

- hereinafter referred to as "**BHTC**" -

and

- hereinafter referred to as "**the Supplier**"-

1. Subject matter of agreement

- 1.1 Subject matter of this Agreement are the General Terms and Conditions for all supplies of products from the Supplier's product range to BHTC and its affiliates in terms of Sec. 15 German Stock Companies Act. The supplied products (hereinafter referred to as „Products“ or „Parts“) shall be used for production at BHTC, respectively shall be used in the products manufactured by BHTC which are for use in automobiles throughout the world. This Agreement shall also accordingly apply to any work involving the improvement, processing or conversion of goods (for instance job processing contract) which the Supplier carries out on behalf of BHTC.
- 1.2 The Products shall be supplied according to separate purchase orders in accordance with the specifications, drawings and other documents agreed between BHTC and the Supplier. Unless otherwise agreed, the following rules shall apply to the deliveries. The General Terms and Conditions of the Supplier and the General Purchasing Terms and Conditions of BHTC, which may be referred to in connection with individual purchase orders, shall not apply and shall be replaced by this Agreement. This shall also apply even if BHTC unconditionally accepts the delivery while aware of contradictory or deviating conditions of the Supplier.
- 1.3 The Supplier shall provide the goods and services in accordance with a quality management system which at least complies with the requirements of ISO 9001:2000 and agrees to continually further develop this system in accordance with the best available technology in order to conform with ISO/TS 16949:2002 (respectively VDA 6.4 when supplying operating material). The Supplier's environmental management has to align with the requirements set by DIN ISO 14001 or EMAS and is to be proven by certificate on BHTC's request.
- 1.4 In addition this Agreement shall be supplemented by "*BHTC Quality Assurance Guidelines for Suppliers*" („*BHTC Qualitätssicherung Richtlinien für Lieferanten*“) in the version that was valid when this Agreement was concluded, which is enclosed as an **Annex** to this Agreement. BHTC shall be entitled to update these guidelines from time to time, in accordance with the further development of the quality management systems. The amended guidelines shall be an integral part of this Agreement unless the Supplier objects to their inclusion in a written statement, detailing his objections within a month after receipt of said guidelines.

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2. Orders

- 2.1. Deliveries shall be made pursuant to written or electronically transmitted individual orders or rolling delivery call-offs from BHTC. The details of the procedure for delivery call-offs are stipulated in *BHTC Rules for Order Processing ("BHTC-Liefervorschrift zur Auftragsabwicklung")* which in its respective version is an integral part of this Agreement.
- 2.2. The Supplier must confirm individual orders in writing immediately after receipt. When delivery call-offs are placed, the Supplier shall not be required to confirm these separately. The delivery call-offs placed within the binding acceptance period for stipulated separately in *Supply Rules for Order Processing ("BHTC-Liefervorschrift zur Auftragsabwicklung")* shall be deemed to be accepted if the Supplier does not object in writing to the delivery call-off immediately at the latest however one working day after its receipt.

3. Provided material

- 3.1. Materials and equipment provided free of charge by BHTC to the Supplier shall remain the property of BHTC and the Supplier is obliged to examine the material provided by BHTC to detect any defects noticeable by sight. The Supplier must also perform a quantity and identification check. Any differences must be reported to BHTC within a working day.
- 3.2. The Supplier is obliged to treat these materials and equipment with due care and attention and to store them properly.
- 3.3. During the manufacturing process the Supplier is obliged to perform further checks if these have been separately agreed with BHTC or if these are necessary to comply with the Supplier's quality management system. If the Supplier discovers any discrepancies as to quality or quantity, BHTC must be informed without undue delay in order to coordinate any further measures. If the Supplier is responsible for these shortcomings in quality, for instance during the manufacturing process, the Supplier shall be obliged to order a substitute product at his cost.
- 3.4. The processing of the materials provided by BHTC takes place always on behalf of BHTC. If the value of the materials provided by BHTC exceeds the value of the processing and – if applicable – of the other components of the newly manufactured objects, the newly manufactured objects shall become the property of BHTC and otherwise they shall be jointly owned by BHTC and the Supplier in the ratio of the provided material to the value of the processing and the other components.

4. Delivery dates, place of delivery, delivery note

- 4.1. All delivery dates pursuant to Clause 2. shall be binding.
- 4.2. The Supplier has to immediately inform BHTC about any recognisable delays.
- 4.3. Unless otherwise agreed in individual cases, deliveries are DDP (INCOTERMS 2000).
- 4.4. Two copies of a delivery note have to be enclosed on a marked place with each delivery.

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5. Default in delivery

- 5.1 If the Supplier does not meet the delivery date he shall be obliged to indemnify BHTC for any damage caused by the delayed delivery, unless he is not responsible for the delay. If the delivery is a fixed-date purchase, BHTC's right to demand said delivery shall only expire if BHTC does not assert its right within a period of 30 days after the delivery date.
- 5.2 In addition if the Supplier has failed to deliver within a last respite set by BHTC, or if BHTC is no longer interested in the delivery at a later date, BHTC shall be entitled to cancel the respective order and to request compensation instead of performance of the delivery. Any possible claims by BHTC for compensation for damage caused by the delay shall remain unaffected by this. If the supplier is repeatedly in default of delivery, BHTC shall be entitled, after serving the Supplier a warning letter without success to cancel with immediate effect any orders which at this point in time have not yet been delivered.

6. Payments and payment conditions

- 6.1 Payment shall be made exclusively on the 25th of the month following the receipt of the invoice less 3% discount if BHTC has already received the goods and otherwise on the 25th of the month following receipt of the goods. Payment shall be made by the means of payment of our choice.
- 6.2 The weights, respectively the quantities determined at the unloading points shall be decisive for calculating and paying for the deliveries. Notwithstanding the provisions in Clause 12, BHTC shall be entitled in the event of defective delivery to retain payment equivalent to the value of missing or defective goods until the order has been properly completed. The Supplier may only claim payments for drafts, drawings and samples if a prior written agreement on these has been concluded.
- 6.3 Without prior written consent from BHTC, which consent may not be unreasonably withheld, the Supplier shall not be allowed to assign his claims against BHTC to third parties or to allow third parties to collect the money due from these claims. If the Supplier is supplied under prolonged retention of title ("*verlängerter Eigentumsvorbehalt*") the consent shall be deemed to be granted pursuant to the above sentence. Should the Supplier assign his claims against BHTC to third parties in violation of sentence 1 without previously obtaining BHTC's consent, the assignment shall nonetheless be effective. BHTC, however, may choose whether to pay the Supplier or the third party, with discharging effect.

7. Force majeure

Industrial disputes, with the exception of strikes limited to the Supplier, civil disturbances, measures implemented by administrative authorities and other unforeseeable, unavoidable and severe events shall release the parties from the contractual obligations for the duration of the disturbance and to the extent that it affects the performance of the obligations. The parties to this Agreement agree to immediately exchange the necessary information and to adapt their obligations to the altered circumstances in good faith.

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8. Submission of information and objects/Confidentiality

The Supplier shall keep confidential all information that is not public, in particular drawings, templates, models, tools, documents, software and other data carriers, which BHTC has made available to the Supplier and shall not pass these on to third parties or duplicate them unless this is absolutely necessary for fulfilling its contractual obligations. The Supplier shall ensure that all of its employees and subcontractors be under the same obligation. BHTC retains the right of ownership and all copyrights in the information and objects mentioned in the above sentence 1.

- 8.2 The Supplier shall only be allowed to advertise with his business connection after prior written approval from BHTC.
- 8.3 Products, which are manufactured in accordance with information, drawings or models provided by BHTC or using tools completely or partially paid by BHTC, may not be offered to third parties, provided as samples or supplied to them without BHTC's prior explicit written approval. The same shall also apply accordingly to drawings, models, samples, etc., provided by BHTC.

9. Changes to Products

- 9.1 The Supplier shall inform BHTC as soon as possible about any intended change of Products that are approved for delivery, at the latest however 9 months before its introduction.
- 9.2 The supply of any Product that has been changed in this way always requires the explicit written approval of BHTC, for instance within a new approval of an initial sample. If the Products are manufactured pursuant to instruction from BHTC, this shall also apply to the change itself. The Supplier shall bear the costs of such a renewed approval of an initial sample.
- 9.3 The above provisions in Clauses 9.1 and 9.2 shall apply analogously to the change of procurement sources for primary material or parts and a change of manufacturing plants or important changes in the manufacturing processes at the Supplier.
- 9.4 BHTC shall be entitled to demand changes to the Products in design and workmanship, as long as this remains equitable for the Supplier. The parties have to agree in good faith on the effects of such changes, in particular with regard to the increased or decreased costs and the delivery dates.

10. Securing of supply

- 10.1 If the Products are goods specially developed for BHTC and in particular if BHTC has directly or indirectly made a contribution to the costs of development and/or for the manufacturing materials, the Supplier warrants to supply BHTC with the Products according to its needs and to accept orders from BHTC as long as BHTC requires the Products. BHTC shall provide the Supplier in good time with the anticipated supply volume deducted from the forecasts of customer requirements. Without affecting clauses 2.1 and 2.2 unless explicitly agreed otherwise the Supplier shall not have the right to a specific quantity being bought, notwithstanding the provision in Clause 2.2.

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10.2 For securing the production of spare parts at BHTC, the Supplier hereby undertakes to ensure the supply of the Products required in connection with said production for at least 15 years (unless otherwise agreed in writing) after the end of series manufacturing of the BHTC products into which the Products are assembled. If the Supplier realizes within this period that it will no longer be possible to ensure this, the Supplier must inform BHTC about the end of the supply possibility without undue delay and, if the Supplier is unable to offer BHTC any other reasonable possibility of supply, to provide BHTC with the opportunity of procuring an all-time requirement 12 months before the production is stopped.

11. Notice of defects

BHTC will promptly notify the Supplier of any defects of the delivery once those have been discovered within the course of a proper business procedure. BHTC's inspection of Products received shall be restricted to a visual inspection of the Products with regard to damages in transit, as well as a check of quantity and an identification check based on a comparison of the delivery documents with the order documents. Any further checks, in particular measuring inspections are not required. BHTC shall carry out inspections during manufacturing in accordance with its quality assurance management system. The Supplier insofar waives any objections on the basis of late notice of defects.

12. Liability for defects

12.1 The Supplier shall ensure that the Products are free of any defects and that the agreed specifications and the generally accepted technological standards have been complied with.

12.2 If BHTC approves drawings, calculations or other documents of the Supplier, this shall not affect the sole responsibility of the Supplier for the Products. This shall also apply to proposals, recommendations or other cooperative actions of BHTC regarding the performance of the Supplier.

12.3 If the Supplier is able to realize on the basis of his know-how that the order placed by BHTC is incomplete or that the purpose pursued by BHTC when it placed the order cannot be fulfilled, the Supplier has to inform BHTC promptly and in full.

12.4 If defective Products are supplied, BHTC shall be entitled to demand immediate remedy by delivery of a replacement or rectification of the defective Products. BHTC shall consult the details of the remedial actions with the Supplier.

12.5 Should the defective delivery result in increased costs for BHTC in meeting its own delivery deadlines (for instance costs of sorting out defective Products, increased inspection effort and costs in manufacturing, etc.), these costs shall be borne by the Supplier

12.6 BHTC shall be entitled to cancel the order and return the Products to the Supplier at the risk and cost of the Supplier or to reduce the price if the Supplier does not fulfil his obligation for remedy of the defects within a reasonable respite set by BHTC. In addition, BHTC shall have the right to compensation for damages. The setting of a respite shall be superfluous if the fulfillment of the remedy of the defects is practically or economically impossible.

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- 12.7 BHTC shall be entitled to return defective Products at the cost of the Supplier or, after previous agreement with the Supplier, to sort out the defective Products and, if necessary, scrap them at the cost of the Supplier.
- 12.8 In urgent cases, if possible after previously informing the Supplier if he can be reached, i, BHTC shall be entitled to carry out a possible rectification of defects on its own or to let it be carried out by third parties and to procure the Products without any defects from third parties in order to fulfil its own supply obligations. The Supplier shall bear the necessary appropriate and evidenced costs for these rectifications or procurements.
- 12.9 Should a defect only be discovered after further processing of the Products despite observance of the provisions in Clause 11 of this Agreement, the following shall also apply: The Supplier shall be obliged to bear all the costs in connection with the exchange or rectification of defective Products, in particular the costs of inspection, transportation, labour and material, regardless of whether these costs are incurred at the Supplier, at BHTC or at third parties. These costs shall also include all costs of any exchange or repair of products into which BHTC has fitted defective Contractual Products.
- 12.10 Should a recurrent failure make it necessary to replace a whole series of Products or BHTC products into which the Products have been assembled, for instance because an analysis of defects in each individual case is not economical, not possible or not reasonable, the Supplier must also bear the above-mentioned costs also to the part of the affected series that does not show any technical defects.
- 12.11 Unless the parties have explicitly stipulated otherwise in writing, the claims arising from liability for defects shall be time barred after a period of 54 months after delivery to BHTC. However, the period of limitation shall be shortened accordingly if the claims of BHTC's customers arising from liability for defects are already time barred at an earlier time.
- 12.12 BHTC shall inform the Supplier about the warranty agreements that exist between BHTC and its customers and to allow inspection of appropriate documents on demand of the Supplier insofar as this is necessary for the implementation of this Agreement and legally permissible for BHTC.
- 12.13 Concerning Products that are relevant for waste gas emissions and safety, the time period for the Supplier's liability for defects shall equal the respective statutory regulations of the individual countries to which BHTC exports its products, if the statutory time bars in these countries exceed 54 months.
- 12.14 Unless otherwise provided in the preceding provisions the liability for defects shall be in accordance with the applicable statutory regulations.

13. Liability

- 13.1 Should BHTC or a third party incur damages because of a defect of a Product or the violation of contractual obligations of the Supplier, the Supplier shall compensate for the resulting damages pursuant to the regulations provided by statutory law.
- 13.2 The Supplier shall be liable for measures undertaken by BHTC or BHTC's customers for preventing damage (for instance a recall campaign) insofar as the Supplier is legally obliged to do so.

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13.3 The Supplier undertakes to maintain a product liability insurance policy with insurance coverage appropriate for the risks involved in the automobile industry, however, not less than € 10,000,000 (in words: Euro ten million) for damage to property and injury to persons including insurance cover for the costs of recall campaigns, and shall retain this insurance cover for at least 15 years after the last delivery supplied, respectively service provided to BHTC. The Supplier must provide BHTC with written proof of this insurance coverage on request. This provision shall not be understood as a limitation of the liability of the Supplier.

14. Industrial property rights

14.1 The Supplier represents and warrants that its deliveries do not infringe any industrial property rights and copyrights of third parties. The Supplier shall indemnify BHTC and its customers from all claims arising from the use of such industrial property rights or copyrights.

14.2 The liability is not applicable if the Supplier has manufactured the Product pursuant to mandatory instructions from BHTC.

14.3 If BHTC has made contributions to the development of the Products – notwithstanding any further-reaching rights on the basis of special agreements with the Supplier – BHTC shall obtain the cost-free, non-exclusive right of use unrestricted in time and place and including the right to sublicense the inventions used in the Products or the copyrights pertaining to said inventions. If the services provided by the Supplier include the production of software, the Supplier has to make the source code available to BHTC, if requested, including the software documentation.

15. Miscellaneous

15.1 In case one of the parties ceases payments or if an application for opening insolvency proceedings against the assets of this party is made or if such an application is rejected because of insufficient assets, the other party shall be entitled to withdraw from the Agreement concerning any orders that have not yet been delivered or performed at that point in time.

15.2 The Supplier hereby agrees that BHTC shall be allowed to store any information in electronic files that is necessary for the purpose of order processing and the checking of invoices. BHTC shall undertake to comply with statutory data protection regulations in this regard.

15.3 BHTC shall be entitled to rights of setoff and retention to the extent provided by law. The Supplier shall only be entitled to offset with his own claims if his counterclaims have been judicially determined as non-appealable, are legally uncontested or have been acknowledged by BHTC. The Supplier shall only be entitled to exercise a right of retention insofar as his counterclaim arises from the same contractual relationship.

15.4 Insofar as this Agreement requires that notifications or statements must be made in writing, this is being complied with if notifications or statements are received by fax.

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- 15.5 Should any provision of this Agreement be or become void, illegal or unenforceable, the validity of the remaining provisions hereof shall not be affected thereby. In such case the parties are obliged to replace the void and/or illegal and/or enforceable provision by a relative provision coming as close as possible to the economic purpose of this Agreement. This shall also apply to any possible omissions in this Agreement.
- 15.6 The place of performance shall be the registered office of BHTC respectively the location BHTC designates for receiving the goods. The parties may agree upon another arrangement for the payment.
- 15.7 The laws of the Federal Republic of Germany shall exclusively apply with the exception of the German conflicts of law rules.
- 15.8 Legal venue for all disputes arising from this Agreement and for all deliveries made in accordance with this Agreement shall be the court at the location of BHTC's registered offices or, for legal actions by BHTC, any other competent court.

16. Amendments and supplements

No oral ancillary agreements exist. Any amendments and supplements to this Agreement have to be made in writing. This shall also apply to an amendment and a cancellation of the provision requiring the written form.

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Lippstadt,

Behr Hella Thermocontrol GmbH

.....
(1st signature)

.....
(2nd signature)

.....
(Name in block letters)

.....
(Name in block letters)

.....
(Department / Function)

.....
(Department / Function)

The Supplier:

.....
(Company Stamp) (Place) (Date)

.....
(1st signature)

.....
(if applicable, 2nd signature)

.....
(Name in block letters)

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(Name in block letters)

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(Department / Function)

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(Department / Function)

Enclosures:

- "BHTC quality mangement guidelines for suppliers "
- "BHTC delivery regulation for order processing"