Quality assurance, supply and warranty agreement

(hereinafter known as Quality Assurance Agreement or Agreement)

between

Konvekta AG, Am Nordbahnhof 5 in 34613 Schwalmstadt, Germany

hereinafter known as KONVEKTA and

hereinafter known as SUPPLIER

Foreword

KONVEKTA is one of the world’s leading manufacturers of thermal systems with production sites domestically and abroad. SUPPLIER is ……………………………………………………………………………………… (to be supplemented by contractors).

KONVEKTA and SUPPLIER agree upon a collaboration on the basis of the terms and conditions set forth in this quality assurance agreement. The main goal of the collaboration is, in addition to the manufacturing and supplying of the agreed products, also common logistical optimisation during the supplying phase, the continuous monitoring of the required product quality and the common striving for continuous cost optimisation.

This quality assurance agreement is valid for all companies that are associated with KONVEKTA (Annex 1 „Companies associated with KONVEKTA“).

With this agreement, KONVEKTA and SUPPLIER establish the principles for business conduct as per the aforementioned aims, as follows:

1. Object of agreement

1.1 The SUPPLIER must supply all products and services ordered by KONVEKTA under the conditions of this Quality Assurance Agreement.

2. Co-operation obligations

2.1 During the period of the validity of this Quality Assurance Agreement, the SUPPLIER must at all times keep KONVEKTA informed of any and all discrepancies or concerns about the feasibility of this agreement or that of the orders. This includes, in particular, the following matters:

- The clarity of the technical specifications of KONVEKTA
- The ability to manufacture the product pending consideration of the manufacturing technology and process safety recognised by the SUPPLIER
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• Compliance with the existing logistical guidelines, including delivery dates and quantities, pending consideration of existing material and capacity availability recognised by the SUPPLIER
• New developments, product changes etc. with the SUPPLIER
• Changes and / or deterioration of manufacturing technologies and sites

2.2 If the SUPPLIER has logged any concerns or discrepancies as per Pt. 2.1, then an amicable settlement for the continued implementation of this agreement and / or the relevant order must be established as appropriate.

3. Specifications

3.1 Prior to each assignment, the SUPPLIER must provide up-to-date complete specifications of the ordered product e.g. datasheet.

3.2 One condition for the approval of each series production, which must be agreed according to the draft and specifications between KONVEKTA and the SUPPLIER, is an Initial Article Inspection. Initial samples are the products which are already manufactured with standard equipment, under series-standard conditions.
For each new or changed product, an Initial Article Inspection must be performed accordingly, unless KONVEKTA has waived this in writing. The supply of new or changed products is not admissible until after approval from KONVEKTA. Until then, the supplying must be done according to the previous specifications.
The initial sample always remains with KONVEKTA respectively.

3.3 In particular, in the following types of cases, the change must be displayed by the SUPPLIER and an initial sampling must be requested by KONVEKTA:

- New product
- Changes with the product design
- Changes with the material / ingredients
- Changes with the product manufacturing process
- Use of new tools
- Use of new sub-suppliers
- Relocation of production sites
- Interruption of production lasting longer than a year

3.4 The products to be delivered to KONVEKTA by the SUPPLIER must be of the quality that is in accordance with the order placed.

3.5 Basically, changes to products are treated as a new product. A review of the entire quality planning and a new initial sampling are therefore imperative. Deviations from this must be agreed with KONVEKTA in writing, as part of a special case.

4. Quality management system

4.1 The SUPPLIER has a quality management system, DIN EN ISO 9001 / DIN EN ISO 14001 (please delete as appropriate) to ensure the ongoing monitoring of the process for the manufacturing of the products that are to be delivered to KONVEKTA, and shall develop these further according to the rules of quality management system and check them.
The SUPPLIER must demonstrate the effectiveness of the quality management system to KONVEKTA on request.
The SUPPLIER shall ensure that the products meet the agreed specifications, and in each case shall promptly provide a written notification of any and all descriptions or other delivery

conditions suggested by KONVEKTA which are recognisable as incorrect, unclear, incomplete or obviously deviant in the sense of a so-called concern / disability display notification.

4.2 The SUPPLIER shall perform for KONVEKTA, by arrangement, a supplier audit for the purpose of verifying the manufacturing processes and the compliance with the quality management system.

4.3 The SUPPLIER must include their suppliers, as well as any applicable development partners as well as all involved third parties who are responsible for the production / quality assurance of the agreed products, in their quality management system, or ensure the quality of the deliveries themselves.

4.4 The SUPPLIER shall be the leading force in the implementation of quality assurance measures, in particular those concerning measurement values and test results, and records. They shall grant access to KONVEKTA on request.

5. Supplier conditions

5.1 The respective delivery and delivery deadlines are included in the order.

5.2 The transfer of the risk takes place with the transfer at the place of delivery. The legal regulations concerning default of acceptance shall remain unaffected.

5.3 All delivery deadlines confirmed by the SUPPLIER are binding, and if applicable, the conditions of delay shall apply without further warning. If a delivery or service is objected to as not compliant with the contract (complaint), the delivery or service shall be considered as in default and as not accomplished until the contractual obligations are met.

5.4 If the agreed delivery date is not adhered to owing to a reason for which the SUPPLIER is responsible, then the SUPPLIER shall have an obligation to compensate KONVEKTA for the delay damages. The acceptance of a delayed delivery or service does not constitute a waiver of any further claims. The SUPPLIER must report any foreseeable delivery delays immediately, but absolutely no more than two weeks prior to the start of the delivery.

5.5 In the event of a delivery delay, KONVEKTA may, pending the calculation of any additional compensation for damages, charge a contractual penalty of 0.2% per calendar day (maximum 5% of the gross value of the residual part of the delivery or service) as a lump-sum delay damages compensation. Evidence of any additional damage remains unaffected.

5.6 In the event of any premature deliveries, the validity shall be determined by the agreed delivery date.

5.7 The SUPPLIER is active throughout the world, and does not actively perform any deliveries to customers of KONVEKTA. The SUPPLIER shall endeavour to handle requests related to products of KONVEKTA in a sensitive manner and, if appropriate, consult KONVEKTA in connection with any delivery. The SUPPLIER shall supply the products with KONVEKTA labels only to KONVEKTA, and not to third parties; and shall not have such products repaired by any third parties.

In the event of any gross disregard by the SUPPLIER, KONVEKTA may terminate any concluded framework supply agreement with SUPPLIER at no notice and withdraw from already existing suppliers agreements (scheduling agreement calls and individual orders). KONVEKTA reserves the right to demand compensation for the resulting damage.
5.8 All deliveries have to be identified generally with barcodes (Code39, Code128 or DataMatrix-Code) on the packing slip for at least the Konvekta order number (DS No. in case of automotive orders), the Konvekta item number and the number of the packing slip. In case the data cannot provided on the packing slip due to technical reasons a good/merchandise label(s), according to VDA recommendation 4902, is required.

The label(s) must be added to the packing slip. If the shipment is not equipped with necessary ID’s, we definitely reserve the right to refuse acceptance of the complete consignment accordingly. Due to our automated processes, handling of goods without the coded data on the packing slip / associated labels is only possible with considerable additional efforts and circumstances.

Regardless of further claims for compensation, we will charge for the additional administrative effort a fee of 50, - € per incorrect consignment. Samples of valid good/merchandise labels can be found on our website www.konvekta.com. The obligation to deliveries with coding on packing slips or the VDA recommendation 4902-compliant goods labels is binding for all shipments. Deviations from this requirement will only be tolerated on basis of prior written approval from our logistics department.

6. Packaging

6.1 The SUPPLIER must handle the finished products carefully and ensure that they are well-protected against damage. If no product-specific packages are agreed with KONVEKTA, then the SUPPLIER shall ensure the availability of appropriate packages which comply with the current security and environmental guidelines. In particular, the SUPPLIER must take measures to prevent quality risks / damage as a result of humidity, corrosion and dirt, and in this sense must ensure delivery conditions which comply with German industry practice.

In addition, there are residual contamination claims for certain articles. At the time of the purchase, the SUPPLIER will be fundamentally required to ask KONVEKTA whether or not there are any specified cleanliness requirements. The test procedures for compliance with the residual contamination requirements are in accordance with VDA 19 and ISO/DIS 16232.

6.2 If any test certificates are required, then these shall be specified by KONVEKTA in the order. The SUPPLIER must include the test certificates as an attachment with the relevant accompanying documents.

6.3 The SUPPLIER is fundamentally obligated to ensure the neutrality of all packages and product labels according to the appropriate specifications unless otherwise agreed.

6.4 The SUPPLIER has to manage the delivery item with a separate KONVEKTA article number and apply a KONVEKTA-specific label, which includes the following information:

   Series / load number incl. manufacturing date, possible suppliers
   Konvekta article number
   Logo / address of Konvekta
   Barcode reference according to VDA standard

7. Traceability

7.1 The SUPPLIER must have in place an appropriate system for the identification and traceability of the products delivered to KONVEKTA, and maintain it. They must strive for continuous improvement of this system, in order to allow for a quick localisation of defective products. In this system, seamless traceability of the following must be ensured:
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- Supply
- Manufacturing / load
- Manufacturing line
- Test documents
- Test status

The SUPPLIER shall guarantee that the traceability is also ensured by their suppliers / third parties which are involved in the manufacturing process.

8. Product inspection checks, inspection and complaint obligations

8.1 KONVEKTA shall limit product inspection checks for deliveries from the SUPPLIER to determining the correct range and identity of the ordered products as well as transportation and packaging damages as well as visible defects and damage (or defects and damage which are easy to recognise by the standards of due diligence). Any noted concerns shall be displayed immediately after the determination.

8.2 For the rest, KONVEKTA shall check the delivered products according to the normal course of business operations during production (restricted to pure functional testing) and notify the SUPPLIER of defects noted from the same (in writing or over the phone) immediately after they have been determined. In this regard, the SUPPLIER waives the defence of late notification of defects.

9. Complaint with 0-KM goods

9.1 If KONVEKTA determines any errors with any delivered products, then the SUPPLIER shall be informed of this in writing, and all of the items in question (in individual cases: only the suspected products) shall be sent back. The SUPPLIER must assume this position immediately. The statement must include the following:

- Quantity and lot number(s) of the deviating product(s)
- Possible consequences for further processing at KONVEKTA or at the end client from the perspective and experience of the SUPPLIER
- Causes of the offending error
- Implemented and planned error prevention emergency measures
- The formation of appointments for which the planned actions are determined
- Notification of the time when the next defect-free delivery will occur
- Measures that were implemented to ensure the secure prevention of such errors in the future
- Data and facts for confirming the effectiveness of the introduced measures

The partners agree on the application of the so-called 8-D report as a problem solution method.

9.2 Defective products must be replaced with defect-free products by the SUPPLIER – the fastest possible replacement option must be select pending consideration of the circumstances. Subsequent / replacement deliveries of returned parts must be referenced as such by the SUPPLIER in their delivery note, with no doubts pending (e.g. Test Report or Repair No.).

9.3 The SUPPLIER shall be granted (reasonable) opportunity by KONVEKTA for sorting, repairing or replacements. If the production processes require immediate intervention, KONVEKTA can perform said sorting / improvement themselves (or have it done by a third
party) after notifying the SUPPLIER in advance. The resulting costs shall be borne by the SUPPLIER.

With sorting actions, the SUPPLIER cannot demand any compensation for the liability of hidden defects.

9.4 In addition, KONVEKTA reserves the right to invoice for the following lump sums in complaint cases:

- Lump sum „Complaints / Test costs per complaint“ 50.00 €
- Test report (TR) 50.00 € / TR
- Transport back to the supplier Transportation prepaid
- Sorting services by KONVEKTA after expenditure 50.00 € /h
- Sorting services by the SUPPLIER at the premises of KONVEKTA 50.00 € / TR
- Repeated (PPAP) Production Parts Approval Process (Initial Sampling) or PPF 210.00 €

10. Guarantee

10.1 Unless otherwise indicated, statutory provisions apply.

10.2 The SUPPLIER shall guarantee the quality of the execution, the used material and the purpose-appropriate construction of the products, as well as the compliance of the specifications. The SUPPLIER shall ensure that the parts are free of defects, fully functional and suitable for the known application fields. Unless specifications include any deviating requirements, the products must be state-of-the-art.

10.3 If any defect or incidence of damage is noted during the guarantee period, then KONVEKTA shall – as long as nothing else is agreed – be authorised to conduct all necessary repairs themselves or have them done by a third party as a compensatory measure. The costs resulting from the same shall be borne by the SUPPLIER in accordance with the statutory provisions regarding compensation.

10.4. For each product and each delivery, including all improvements and replacements, the parties shall grant a guarantee period of 24 months from the date of the shipment by KONVEKTA to KONVEKTA’s end clients; however, this can be no later than 30 months after the delivery by the SUPPLIER to the agreed place of delivery – the date of the delivery slip is decisive in the event of any doubt. The parties also agree that a written complaint notification within the aforementioned period shall be valid as far as maintenance of the warranty rights is concerned. The demand for elimination of the reported defects shall expire in 2 years from the receipt of the written complaint.

10.5 The SUPPLIER guarantees that the products are consistent with the security and acceptance specifications of the authorities, trade associations and institutions of those States in which the contract products are delivered. If necessary, the SUPPLIER shall procure such information themselves; KONVEKTA shall provide support in this regard. The SUPPLIER shall ensure unrestricted conformity with all EU Guidelines and DIN and EN norms which apply with the supply portfolio.

10.6 In the event of serial failures (i.e. an error rate of 5% more of the same supplied products) owing to reasons for which the SUPPLIER is responsible, KONVEKTA shall be authorised to demand a preventive remedy for already-supplied products at the expense of the SUPPLIER.
If any defects pose a threat to life and limb or to any items of significant value, then KONVEKTA shall be authorised to introduce the appropriate measures based on their own estimates if the SUPPLIER does not immediately respond to such a request from KONVEKTA.

10.7 Regarding the warranty processing, the prepared reports are required by the SUPPLIER. The SUPPLIER must submit a prepared report for 0-KM products within 30 days after KONVENTA has submitted a notification of the defective product(s) to the SUPPLIER. For field goods, a prepared report must be submitted to KONVEKTA within 30 days after the transfer of the damaged components in the same way. If the aforementioned deadlines are not adhered to, then the warranty request of the SUPPLIER shall be deemed accepted.

Prepared reports shall be submitted by the SUPPLIER at no charge.

10.8 The SUPPLIER may dispose of the parts included in a prepared report only after the prior written consent of KONVEKTA; however, the retention period for the SUPPLIER shall be a maximum of 3 months.

11. Protection legislation and product liability

11.1 The SUPPLIER is responsible for ensuring that the products – as long as they were manufactured on the SUPPLIER’s own design – do not violate any patents or other intellectual property rights of third parties. The SUPPLIER shall indemnify KONVEKTA against any demands and costs resulting from violation of patents or other intellectual property rights during the use of the products.

11.2 If any product liability claims are made against KONVEKTA and the cause for it lies with the product obtained from the SUPPLIER, then the SUPPLIER shall indemnify KONVEKTA from all resulting demands internally.

11.3 The SUPPLIER must develop and maintain an appropriate insurance policy against product liability risks. An appropriate notification must be submitted to KONVEKTA upon request.

11.4 KONVEKTA shall inform the SUPPLIER of any product liability claims as soon as they become aware of them, provided it results in claims by KONVEKTA against the SUPPLIER.

11.5 If the SUPPLIER discovers any defect with the products which could trigger a product liability claim, and if other, already delivered products show the same defect, then the parties must advise as to further measures. If recall actions (e.g. in the form of service information with related conversion actions in the service workshops of the manufacturers or conversion actions in the field) for the products in question are agreed on, then the SUPPLIER must prepare the appropriate number of replacement and exchange parts. The costs of such a recall action must be borne by the SUPPLIER, as part of the applicable legal provisions.

11.6 The SUPPLIER must observe their product as to its performance in the market (i.e. for possible hazards) and provide KONVEKTA with a comprehensive report in the event of any discoveries whereby any risk to persons or items resulting from daily handling with the product, appears inevitable (Production Observation Obligation).

12. Replacement parts

12.1 After the end of series deliveries, the SUPPLIER must continue to supply KONVEKTA with similar products within the scope of the provision of replacement parts to clients of KONVEKTA. This subsequent delivery obligation – subject to any deviating individual
agreements – is limited to 15 calendar years from the last delivery of the series in question and – subject to the existence of any special agreements – to unchanged conditions regarding quality and specifications. The replacement parts and products must be manufactured using original tools.

13. Confidentiality

13.1 The parties agree to handle all information in connection with this agreement in a confidential manner, not to forward it to third parties. This obligation also applies to the colleagues of the agreeing parties who are directly involved in this agreement or who learn of such information during common business activities.

13.2 The obligation of confidentiality shall continue to apply after the end of this agreement, as long as the products and technologies are not released publicly; in the event of any doubt, this must be evidenced by the partner who no longer wishes to be bound by the obligation of confidentiality.

13.3 The documents, files and information created by either party may not be used by the other party for any commercial purposes other than the purposes included in this agreement (be it in identical or modified form, or whole or in part); and they may not be forwarded to any third party or used by any other clients unless the other party has consented to the same in writing.

14. Agreement period

14.1 This agreement shall become valid once it is signed by both parties, and shall remain so indefinitely. It may be terminated with a notice period of 3 months prior to the end of the calendar year, otherwise it shall be automatically be prolonged by one year.

15. Force majeure

15.1 Neither party shall hold the other liable for any non-satisfaction or delayed satisfaction of obligations which is owing to reasons which are beyond the control of the other party. Such reasons include, in particular, strikes – with the exception of strikes at one’s own premises – lockouts, riots, fire and natural disasters. The disadvantaged party shall immediately inform the other party of the cause and duration of the delayed satisfaction / non-satisfaction of obligations and undertake all reasonable efforts to reduce the effects resulting from the force majeure circumstance on the other party.

16. Transfer of rights and obligations

16.1 The rights and claims resulting from this quality assurance agreement may not be assigned to a third party or transferred (in whole or in part) without the written consent of the other party. However, the following do not count as third parties: associated companies of the partners who are based in Germany under the terms of § 15 AktG [German public companies act] (at the time of the signing of this agreement – see Annexes 1 and 2).

17. Conflict of law provisions

17.1 If one or more of these provisions conflict(s) with the form-type clauses of the SUPPLIER (in whole or in part), the partners shall herewith agree on the primacy of the clauses established in this agreement.

18. Final provisions
18.1 This quality assurance agreement replaces all earlier agreements concluded between the parties. In the event of any contradictions between the text of this agreement and that of its accompanying documents, the text of the quality assurance agreement shall prevail.

18.2 The place of jurisdiction is Schwalmstadt, Germany.

18.3 This agreement is governed by the material and procedural law of the Federal Republic of Germany.

18.4 The competent court is agreed as that of Schwalmstadt for both parties and for all direct and indirect claims under this agreement.

18.5 Additions and changes to this contract and its components must be announced in writing before they have any validity. Any waiver and / or amendment of this written form requirement also must be in writing.

18.6 Oral agreements shall have no legal binding.

18.7 There are no existing written ancillary agreements at the time of the signing of this contract.

18.8 In addition to this agreement, the General Business Terms and Conditions and KONVEKTA AG’s conditions of purchase and sale (the most up-to-date versions thereof) shall remain valid at the time of the placing of an order, but in the following order:

1. This agreement
2. KONVEKTA's conditions of purchase
3. KONVEKTA's sales conditions (as applicable here)
4. KONVEKTA's general terms and conditions

The SUPPLIER shall accept this at the time of the acceptance of the order.

19. Accompanying documents

Appendixed:
Annex 1: KONVEKTA associated company
Annex 2: SUPPLIER associated company
Annex 3: ............... (as needed)
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Appendix 1: Associated companies of Konvekta AG

a.) Konvekta Barchfeld
   Am Eisberg 13
   36456 Barchfeld
   Germany

b.) Konvekta Türkei A. S.
   Isiso Sanayi Sitesi Yani
   Hосdere Mevkii
   P.K. 34860 Hadımköy / Istanbul
   Turkey

c.) KONVEKTA Air Condition (Taicang) Co. Ltd.
   168 North Taiping Rd.
   215400 Taicang Jiangsu
   PR China

d.) Konvekta S. A. Argentina
   Calle 29 y 9
   Parque Industrial Pilar
   B 1629 MXA – Pilar – Buenos Aires
   Argentina
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Annex 2: Associated companies of SUPPLIER