

BKV Zrt.**SUPPLY AGREEMENT**

MADE AND ENTERED BETWEEN:

Budapesti Közlekedési Zártkörűen Működő Részvénytársaság – Budapest Transport Closely Held Corporation

having its principal office at 1980 Budapest, Akácfa utca 15.;

Company Register Number: 01-10-043037;

Tax No.: 12154481-2-44;

as principal, hereinafter referred to as '**Principal**',

of the one part, and

VAN HOOL NV

having its principal office at Bernard Van Hoolstraat 58 B-2500 LIER (Koningshooikt)

Company Register Number: 0404.060.032;

Tax No.: 0404.060.032;

Bank account number: BE04 4050 5027 5131 swift code : KREDBEBB

as supplier, hereinafter referred to as '**Supplier**', of the other part(hereinafter collectively referred to as '**Parties**')


for the **acquisition of 30 + 30% at most 10-year-old, low-floor, urban (M3/I class) articulated buses** based on the tender documentation of the negotiated procedure launched by the announcement containing an Invitation to Tender No. 14/TB-124/2009 issued by the Principal (hereinafter referred to as 'the Tender') and the bid submitted to the tender by the Supplier on 18 May 2009 (hereinafter referred to as 'the Bid').

1. Subject of the agreement

- 1.1. The delivery and handover to the Principal of the goods specified in the tender documentation of the Tender arranged by the Principal, i.e., **30 pcs. at most 10-year-old low-floor, city (M3/I class) buses** - hereinafter referred to as 'the Delivery) in the manner, for the price and by the deadline specified hereunder.
- 1.2. The Parties agree that the total number of items specified in this Agreement may be altered by + 30% during the term of the Agreement.

2. Qualitative and technical requirements

- 2.1. The detailed qualitative and technical parameters of the buses specified in Section 1.1 of this Agreement (hereinafter referred to as 'the Goods') are laid down in Part II of the tender documentation of the Principal (Technical Specification), which constitutes Annex 1 to this Agreement.


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3. Supply price

- 3.1. As agreed by the Parties, the Principal, as consideration for the Goods specified in Section 1.1, shall pay to the Supplier a supply price of HUF **596.715.000** + VAT (hereinafter referred to as 'Supply Price') calculated with a vehicle unit price of **19.890.500** HUF + VAT, calculated at a rate of HUF 284,15 for 1 €.
- 3.2. The Supply Price shall under no circumstances be increased during the term of this Agreement.
- 3.3. The net Supply Price shall contain all the labour, material and other costs necessary for the due performance of the Delivery specified in this Agreement, including the costs of transportation, storage, loading, regulatory permits relating to the delivery and the product fee.
- 3.4. The Parties agree that the title to the Goods shall pass upon the payment of the invoice issued for the Supply Price in accordance with this Agreement.

4. Delivery date

- 4.1. The Supplier shall commence the delivery of the Goods within 15 days of the handover and acceptance at the manufacturing plant as defined in Section 6.1, and deliver the Goods to the delivery site of the Principal specified in Section 6.3 in accordance with the Delivery Schedule constituting Annex 2 to this Agreement.
- 4.2. Any deviation to the Delivery Schedule shall be realised upon former written admission of the Principal.

5. Delivery and supply of components

- 5.1. The costs and risk of delivery are born by the Supplier; the Principal shall accept no separate invoice on that account.
- 5.2. The Supplier undertakes to assure the supply of components to the Goods for at least 5 years following the Supply in accordance with the contents of his Bid.

6. Acceptance

- 6.1. Within 8 days of the due signature of this Agreement by both Parties, the Parties shall conduct a handover-acceptance procedure (hereinafter referred to as 'Manufacturing plant Handover-Acceptance') at the site specified by the Supplier.
- 6.2. The Parties shall draw up a report of the Manufacturing plant Handover-Acceptance of the Goods, which contains the chassis number. The Principal shall inspect the Goods in terms of quality and technical specifications, enter his findings in the report and notify the Supplier thereof in writing.
- 6.3. Following the Manufacturing plant Handover-Acceptance, the Supplier shall, in accordance with Sections 4 and 5 of this Agreements, transport the vehicles accepted by the Principal

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in the course of the Manufacturing plant Handover-Acceptance procedure to the site specified by the Principal in this Section.

The site specified by the Principal for the acceptance of the goods:
Cinkota Bus Depot 1165 Budapest, Bökényföldi út 122.

- 6.4. The Parties shall conduct a final handover-acceptance procedure at the site of the Principal and draw up a report thereof. The Supplier shall deliver the Goods to the Principal in the condition recorded in the report drawn up in the course of the manufacturing plant handover-acceptance procedure. If the Goods delivered fail to correspond to the condition recorded in the report drawn up during the manufacturing plant handover-acceptance procedure, the Principal shall record any qualitative or technical deficiencies of the Goods in a report and notify the Supplier thereof. The Principal may return the Goods and the Supplier shall perform as appropriate while bearing the penalty and any additional costs. The Parties may, however, agree in writing that the Principal accepts the Goods as performance at an agreed reduced price and takes delivery of such.
- 6.5. The Supplier shall, upon the handover and acceptance of the Goods, hand over to the Principal the documents and representations specified in Annex 1 to this Agreement (Technical Specification) in Hungarian.
- 6.6. The Supplier shall conduct, free of charge, theoretical and practical training at the site and at the time specified by the Principal to the driving and maintenance staff of the Principal about the requirements relating to the driving and maintenance of the vehicles. The supplier shall deliver the theoretical training following the Manufacturing plant Handover-Acceptance but before the commencement of the delivery of the buses and the practical training following the delivery of the buses or, in the event of a tiered delivery, following the first delivery.
- 6.7. Handover and acceptance shall be certified by the completion of the report specified in Section 6.2 and Section 6.4., which the Parties sign to verify the handover and acceptance of the Goods following quantitative and qualitative inspection and of all documents required by the Principal in Annex 1 (Technical Specification).

7. Penalty

- 7.1. If the Supplier is in delay with the performance for any reason within his control (with the exception of force majeure), then he shall pay a delay penalty (Section 246 of the Civil Code) to the Principal (hereinafter referred to as the 'Delay Penalty'). The rate of the Delay Penalty shall be 0.1 percent (0.1%) of the consideration for the vehicle affected by the delay for each day of delay.
- 7.2. If the Supplier defaults to perform its obligations upon this agreement for any reason within his control especially if the Principal terminate the contract under section 10.2. the Supplier shall pay a frustration penalty (hereinafter referred to as 'Frustration Penalty'). The rate of the Frustration Penalty shall be 15 percent (15%) of the consideration for the vehicle affected by the frustration.
- 7.3. If the Supplier defaults to perform its obligations upon this agreement for any reason within his control, then he shall pay a default penalty to the Principal (hereinafter referred

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to as the 'Default Penalty'). The rate of the Default Penalty shall be 0.5 percent (0.5%) of the consideration for the vehicle affected by the default.

- 7.4. If the Supplier is obliged to pay a penalty, the Principal shall issue an invoice of the amount of the penalty and he shall send it to the Supplier.

8. Guarantee

- 8.1. Goods supplied under this Agreement shall meet the standards laid down in Hungarian legislation as well as the technical specifications set out in the tender documentation and in the bid.
- 8.2. The Supplier guarantees that the goods supplied by him are fit for their intended use and they are free from any defects in design, material or manufacturing or any defects arising from an act or omission of the Supplier. The Supplier provides warranty for goods delivered and stored appropriately.
- 8.3. The Supplier is responsible for the Goods to be delivered being free from all encumbrances, litigations and any third party rights.

9. Payment Terms

- 9.1. The Supplier shall be entitled to issue an invoice (in English language) for the entire consideration for the goods to be delivered following the completion of the Manufacturing plant Handover-Acceptance specified in Section 6.1.
- 9.2. The submission of the invoice is conditional on the Supplier making available to the Principal a performance bond [in accordance to 53.§ (6) of public procurement Act] corresponding to the invoice amount. The performance bond serves as guarantee for the delivery of the Goods to the site specified by the Principal. The bond shall be irrevocable and unconditional; the bond and any costs relating to the management thereof shall be borne by the Supplier.
- 9.3. Following the handover and acceptance of 50% of the Goods to be delivered at the site of the Principal specified in Section 6.3, the amount of the performance bond shall be reduced appropriately by 50% based on the written representation of the Principal. The remaining part of the performance bond shall be released, based on the written representation of the Principal, following the handover and acceptance of the remaining part of the Goods at the site of the Principal specified in Section 6.3.
- 9.4. By signing this Agreement, the Supplier accepts that no advance payment shall be possible.
- 9.5. The Supplier shall send the invoice - containing the Principal's procurement (BMR number) order number and the number of the Contract - (noting on the envelope that it contains an invoice) to the following address:

Budapesti Közlekedési Zártkörűen Működő Részvénytársaság
Pénzügyi Főosztály Folyószámla Osztálya (Current Account Department)
1980 Budapest, Akácfa u. 15.

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Without the Principal's order number (BMR number) and the contract number the Principal shall be entitled to send back the invoice and the Principal shall not be responsible for the delay arising thereof.

- 9.6. The Report on the Manufacturing plant Handover-Acceptance as described in Section 6.2. and the performance bond as described in Section 9.2. shall be attached to the invoice.
- 9.7. The Principal shall meet his payment obligation by bank transfer within 15 (fifteen) days of the receipt of the invoice satisfying all content and form requirements as specified in the effective legal regulations and in this Agreement. The transfer shall be made to the bank account stated in the invoice. The payment shall be made in the currency used in this Agreement to specify prices. Payment shall be deemed to have been made when the bank account of the Supplier is debited. In case of payment in HUF, the rate of the default interest shall be the interest rate specified in Section 301/A of the Civil Code.
- 9.8. The payment of the consideration specified in this Agreement shall be subject to Section 36/A of Act XCII of 2003 on the Taxation Procedure. The Principal is in the position to make the payment only if the Supplier presents, sends or hands over a joint tax statement issued by APEH (the tax authority) and VPOP (Customs and Excise) to the effect that the Supplier has no public debt as evidenced by the records of the central tax and customs authorities.

10. Effect and termination

- 10.1. This Agreement shall be constituted upon its signature by both Parties and it shall enter into force simultaneously, and it shall be terminated upon the due performance of the Agreement. Following due performance, the Agreement shall be terminated with the exception of Sections 5.2., 11 and 12 and 13.
- 10.2. The Parties may terminate this agreement exclusively in the event of a serious breach of contract by the other Party, in writing and with immediate effect. Such termination shall be valid only where justification is provided.
The Principal shall be entitled to terminate the contract especially if the Supplier defaults more than 30 days in delivering the Goods as compared to the date specified in the Delivery Schedule constituting Annex 2 of this Agreement.
In this case the Principal shall not be responsible for any obligations of this Contract and the Supplier shall not claim any demand upon the termination based on such case.
- 10.3. The Supplier shall not be entitled to terminate this Agreement with regular notice of termination. If the Supplier fails to honour his obligations arising out of this Agreement, the Principal shall be entitled to enter into an agreement with a third party and the Supplier shall reimburse him for any losses arising from the delay or from the conclusion of the agreement with the third party.
- 10.4. Notwithstanding any other provisions of this Section 10, the Principal shall be entitled to the objective rescission set forth in Section 381 of the Civil Code.

11. Confidentiality

- 11.1. The Parties agree to treat as business secret (hereinafter referred to as 'Secret') this Agreement as well as any information obtained during the performance thereof or in connection therewith and relating to the other Party, including information constituting the other Party's know-how, which the other Party has not disclosed and the disclosure of which would be detrimental to the other Party or to any other entity related to the other Party, or could result in undermining the reputation thereof or would harm or jeopardise their financial interests.
- 11.2. The Parties agree that, accordingly, they shall keep all Secrets strictly confidential and they shall not disclose such without the prior written consent of the other Party, shall not release such to any unauthorised person and shall not make available to such person during or after the term of this Agreement.
- 11.3. The Parties agree that they shall assure that Secrets are treated as business secrets also by other persons in legal relationship with them (e.g., employees, business partners, etc.) both during and after the term of this Agreement.
- 11.4. The Parties agree that in the event of the termination of this Agreement for any reason, they shall be subject to a confidentiality obligation for an indefinite period after the last day of the legal relationship.

12. Governing Law, Competent Court

- 12.1. The Parties agree that issues not regulated in this Agreement shall be governed by the laws of Hungary, in particular Act CXXIX of 2003 on Public Procurement and Act IV of 1959 on the Civil Code with the proviso that in the event of a conflict between the provisions thereof and this Agreement, the provisions of the Agreement shall prevail.
- 12.2. The Parties agree that they shall attempt to settle any disputes arising from this Agreement through negotiations. For the settlement of any disputes arising from this Agreement between the parties, the Parties shall subject themselves to the exclusive jurisdiction of the Pest Central District Court or the Metropolitan Court of Budapest, as appropriate for their jurisdiction.

13. Notice

- 13.1. The Parties agree that any written notices required by this Agreement shall be sent to the address of the principal office of the Parties. Notices sent as certified/return receipt requested mail shall be deemed to have been delivered on the 3rd (third) working day after the attempted delivery even if, according to the return receipt, delivery failed because the addressee is not known, has moved to an unknown address, failed to take delivery of the document or refused taking delivery.

The parties agree that any notices relating to the **amendment of the Agreement** shall be sent to the following address unless notified otherwise:

Dr. Péter Tóth – Head of the Procurement and Contracting Office
1980 Budapest, Akácfa u. 15.

Dr. Szilágyi Nóra
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The Parties agree that any **notices** relating to the **performance of the Agreement** shall be sent to the following address unless notified otherwise:

Nemecz Gábor Head of Development and Investment Divison
1980 Budapest, Akácfa u. 15.

13.2. The Parties state that they shall inform the other Party forthwith, via telephone, fax or email, about any material information relating to the mutual cooperation of the Parties, in writing where required, in a certifiable manner (in the event of delivery by mail, with a dispatch note and return receipt requested; in the event of delivery by hand, with an acknowledgement of receipt containing at least the legible name and signature of the person taking delivery as well as the date of delivery).

13.3. Contact persons:

On behalf of the Principal, the contact person or organisation in respect of this Agreement:

Gábor Nemecz, Head of Development and Investment Department
Telephone: 461-6500/11-003
Fax: 461-6500/11-030
E-mail: nemeczg@bkv.hu

On behalf of the Principal, the contact person for technological and technical issues:

Jász Levente
Telephone: 461-6500/12-510
Fax: 461-6500/11-076
E-mail: jaszl@bkv.hu

On behalf of the Supplier, the contact person or organisation in respect of this Agreement:

Vanfraechem Thierry
Telephone: 00 32 34 20 22 33
Fax: 00 32 34 20 22 67
E-mail: vente.bc.fr@vanhool.be


On behalf of the Supplier, the contact person for technological and technical issues:

Buelens Alfons
Telephone: 00 32 34 20 28 27
Fax: 00 32 34 20 28 90
E-mail: alfons.buelens@vanhool.be

14. Miscellaneous.

14.1. The Supplier declares that he is in possession of all the data necessary for performing every obligation under this Agreement.

14.2. The Supplier states that he is aware that in 2009, work to establish a holding structure is under way at the Principal, in the course of which the Supplier shall provide all the support, assistance and representation required from him to the Principal; furthermore, he consents


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to the Principal replacing itself, by way of his unilateral statement, in this Agreement by any member of the proposed holding.

- 14.3. The Parties declare that – except in cases of gross negligence or wilful misconduct - Principal shall not be liable to the Supplier for any damage arising from the fact that the Public Service Contract concluded by the Principal and the Municipality of Budapest is terminated prior to the termination of this agreement.

The parties declare that in accordance to the section 314 (2) of the Civil Code each point of this agreement – including the points of prices – has been determined by taking into consideration of the limitation of liability of the Principal as determined in this point.

The Supplier declares that is aware of the fact that the Public Service Contract is concluded for a defined term until 30 April 2012.

- 14.4. Supplier shall performs its obligations in I. class quality as it is described in this agreement and in the technical specification and in accordance with the relating standards
- 14.5. The Supplier represents and warrants that his employers, agents and subcontractors employed in relation to this Agreement have the necessary expertise, qualifications, any special licenses or examinations required by law as well as employment relationships by virtue of a legitimate labour contract, and that the effective regulations set out in labour and tax laws and social security regulations are applied and observed.
- 14.6. The Supplier shall be entitled to use those sub contractors that have been appointed in its Bid.
- 14.7. In order to assure the standards concerning types of work, the Supplier shall continuously control its own activities and those of any other persons involved in implementation.
- 14.8. The Parties shall mutually inform each other about circumstances affecting the performance of contractual obligations. They shall be responsible for any damage arising from failure to do so.
- 14.9. Furthermore, the Parties state that in the course of performing its obligations undertaken in the Agreement, the Supplier shall comply with all relevant legal regulations, in particular, he shall observe and have all persons acting on his behalf observe the effective environmental regulations.
- 14.10. The Parties state that the following documents served as the basis for concluding this Agreement:
- 14.6.1 The tender documentation of the public procurement procedure No. 14/RB-124/09;
- 14.6.2 The Supplier's bid dated on 18 May 2009;
- 14.11. The Parties agree that in the event of a conflict between the construction of this Agreement and the text of this Agreement, the contents of the text of this Agreement shall prevail, followed by the contents of the tender documentation and the final bid of the Supplier (in this order). The Parties shall consider the aforementioned documents to be the basis of reference in issues relating to this Agreement.

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14.12. The Parties state that the following documents constitute an inseparable annex to this Agreement:

- Annex 1: Technical specification
- Annex 2: Delivery Schedule

14.13. This Agreement is signed in four Hungarian and four English language copies, that are fully equal.

IN WITNESS WHEREOF the Parties hereto, having read and understood this Agreement and its Annexes, have hereonto set their hands and seals through their authorised representatives.

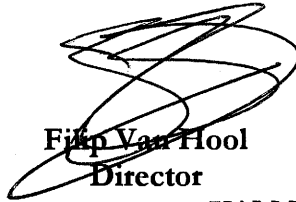
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Lier, *8/11* June 2009.



Dr. Kocsis István
CEO

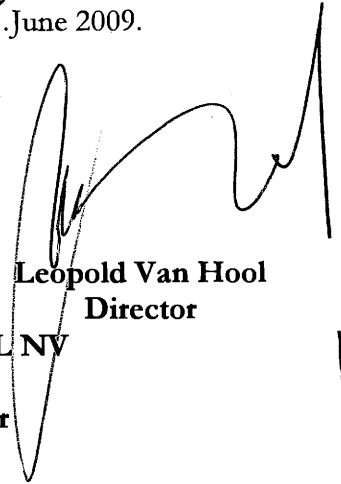
Budapest Transport Closely Held Corporation
Principal



Filip Van Hool
Director

VAN HOOL NV

Supplier



Leopold Van Hool
Director

Dr. Szilágyi Nóra
Jogi előadó
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