

Tool Contract B

For Tools Owned By Supplier *as per the attached Appendix*

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between **Behr-Hella-Thermocontrol GmbH**,
Hansastr. 40, 59557 Lippstadt

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

and

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

1. Tools

For the execution of BHTC's delivery orders, Supplier shall use the tools specified in the Appendix to the present Agreement and which are the property of Supplier.

2. Repairs/Maintenance/Storage

- 2.1 Supplier shall handle the tools with care and keep them in an operating condition at all times. It shall bear all costs arising from the aforesaid. Damages shall be duly rectified in such a way that defects are at all events excluded in the parts to be produced and that any overstepping of delivery dates is avoided.
- 2.2 Even after the termination of serial production of tool components, Supplier shall store the tools free of charge for at least 15 years in order to satisfy BHTC's spare part requirements and shall keep them in a usable condition at all times. Supplier shall duly inform BHTC in writing of the expiry of the storage period. At all events, scrapping or any other disposal of the tools shall require BHTC's prior written consent, also after termination of serial production.

3. Intended Use

- 3.1 The tools shall only be used for executing orders from BHTC. Any other use shall require BHTC's explicit prior consent in writing.
- 3.2 Supplier shall only use the tools in the plant specified in the Appendix.



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- 3.3 Use of the tools at plants other than that referred to in Section 3.2, or at sub-contractors of Supplier, or any transfer to third parties, shall require BHTC's prior written consent.

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4. Insurance

Tools must be insured by Supplier against fire, theft and water damage at their replacement value. Evidence of insurance cover shall be provided to BHTC upon request.

5. Return of Tools

5.1 Upon BHTC's first demand, Supplier shall be immediately obliged to return the tools to BHTC, renouncing any right of retention

- if Supplier is unable to deliver the components required by BHTC on the requested delivery dates requested or if Supplier refuses delivery;
- if Supplier fails to meet a stipulated delivery date for ordered parts for reasons attributable to Supplier even though an appropriate period of grace was granted;
- if Supplier is unable to deliver the required quantity of parts as per the agreed drawings even though an appropriate period of grace was granted;

5.2 In the case set out in Section 5.1, BHTC shall reimburse Supplier the residual value of the tool in question. Upon receipt of the payment, Supplier shall assign to BHTC the property of the respective tool and BHTC accepts such assignment of property.

5.3 Further claims by BHTC shall not be affected thereby.

6. Security Agreement

6.1 Upon the conclusion of the present Agreement, Supplier shall thereby assign its joint ownership of the tools as specified in the Appendix of the present Agreement to BHTC on the suspensive condition that Supplier becomes insolvent or discontinues its business, or if a petition is made for insolvency or composition proceedings on the estate of Supplier; BHTC hereby accepts the aforesaid assignment. The transfer of tools shall be replaced by Supplier keeping the said tools in safe custody on behalf of BHTC free of charge in the aforesaid cases. BHTC shall reimburse Supplier the residual value of the tools in question.

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- 6.2 On BHTC's first demand, Supplier shall return to BHTC the tools assigned pursuant to Section 6.1, thereby renouncing any right of retention.
- 6.3 With the return of tools in accordance with Section 6, all auxiliary means for the production or repair of tools shall be transferred to BHTC, e.g. stencils, models, electrodes, NC programmes, as well as a detailed tool drawing. Measuring and testing equipment required for the production of the parts shall be returned to BHTC free of charge at BHTC's request, e. g. gauges and devices. Section 6.2 shall apply correspondingly.

7. Option to Buy

The parties hereto agree that BHTC at the end of the series production shall be entitled to buy the tools at their residual value. If agreement on the residual value cannot be reached, then either party shall be entitled to demand the preparation of an expert opinion on the residual value. An appropriate expert shall be named by the president of the competent chamber of industry and commerce at the place of Supplier's registered offices. The residual value determined by the expert shall be binding to both parties. The same shall apply to the determination of the residual value of the tools in accordance with Sections 5.2 and 6.1 of this contract. Upon receipt of the payment, Supplier shall assign to BHTC the property of the respective tool and BHTC accepts such assignment of property.

8. Miscellaneous

- 8.1 BHTC shall entitled to inspect tools at Supplier if this is considered necessary on account of technical problems, or if it is suspected that tools are not being properly treated, or for any other reasons.
- 8.2 Supplier shall be immediately obliged to inform BHTC of any pending execution measures or the institution of insolvency or composition proceedings and to take all steps to protect BHTC's rights.
- 8.3 If a provision of the present Agreement is or becomes invalid, the validity of the Agreement as a whole shall not be affected thereby. The contracting parties shall be mutually obliged to replace the invalid provision by a valid provision which comes as close as possible to the original economic intentions of the invalid provision.
- 8.4 All amendments and supplements to the present Agreement must be made in writing. The same shall apply to the cancellation of this written form clause.

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8.5 The legal venue shall be Lippstadt or, at BHTC's option, the competent court for the headquarters of Supplier.

Lippstadt,

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Behr-Hella-Thermocontrol GmbH
