

# Tool Contract A

## For Tools Owned By BHTC *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. Ownership of Tools

- 1.1 All tools specified in the attached Appendix - regardless of whether they have been made available to Supplier by BHTC, produced by Supplier itself or purchased from a third party - shall be the property of BHTC and are lent to the Supplier.
- 1.2 If the tools are produced by Supplier on BHTC's behalf or purchased from a third party, ownership shall be transferred to BHTC upon completion of the tools or upon receipt by Supplier if the said tools are purchased from a third party. The transfer of the tools shall be replaced by including the said tools in the present Agreement.
- 1.3 Any changes to the tools shall be made on behalf of BHTC which will become owner of the item resulting from the aforesaid changes.
- 1.4. The tools shall be indelibly marked by Supplier in such a way that they can be identified as BHTC's property at any time.

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### 2. Repairs/Maintenance/Storage

- 2.1 Supplier shall handle the tools with care.
- 2.2 Supplier shall be responsible for repairs and maintenance of the tools. 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.
- 2.3 Supplier shall duly replace tools by arrangement with BHTC if this is necessary due to wear and tear.
- 2.4 Supplier shall bear the cost of replacing tools
  - a) which are lost or
  - b) have become unusable for reasons attributable to Supplier.

Supplier shall transfer the property of such newly acquired or newly produced tools to BHTC and BHTC accepts the assignment. The tools replaced in this way become the subject matter of this contract.

- 2.5 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 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 consent in writing, also after the 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 .
- 3.3 The 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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3.4 Unless otherwise expressly agreed, Supplier shall bear the cost of transport, packaging and transport insurance in connection with sampling, delivery and return of the tools.

### **4. Insurance**

4.1 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.

4.2 All damages to the tools must be notified to BHTC immediately. All and any compensation claims against third parties shall be assigned to BHTC.

### **5. Liability**

5.1 Supplier shall be liable for the condition of tools at all times in line with the relevant statutes and regulations for the prevention of accidents.

5.2 All and any compensation claims of Supplier against BHTC shall be excluded regardless of the legal cause. This shall not apply if BHTC is liable in cases of wilful intent, gross negligence, acceptance of a warranty for a certain quality of the goods or if major contractual obligations are negligently infringed.

### **6. Return of Tools**

6.1 BHTC shall be entitled to demand the return of individual or all tools placed at Supplier's disposal without being required to state detailed reasons. Supplier shall basically be granted a reasonable period for the return of such tools in order to complete outstanding orders.

6.2 BHTC shall be entitled to demand immediate return of the tools if Supplier is unable to guarantee the quality, quantity and delivery dates stipulated by BHTC.

6.3 Notwithstanding any possible claims against BHTC in connection with the business relationship between the parties, Supplier shall waive the enforcement of any retention rights if BHTC has demanded return of the tools.

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6.4 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 free of charge at BHTC's request, 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 6.3 shall apply correspondingly.

#### **7. Miscellaneous**

- 7.1 BHTC shall be entitled to inspect tools at Supplier if this is considered necessary on account of technical problems, or if it is suspected that the tools are not being properly treated, or for any other reasons.
- 7.2 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.
- 7.3 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.
- 7.4 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.
- 7.5 The legal venue shall be Lippstadt or, at BHTC's option, the competent court for the headquarters of Supplier.

Lippstadt,

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### List of Tools

Quantity	Description	Used for part/drawing no.	Tool design	BHTC-owned	Signature of supplier (please return with original signature)

Plant (location of tools and production):

1. \_\_\_\_\_  
(name of the plant) (address)

2. \_\_\_\_\_  
(name of the plant) (address)