

ZF Group Tooling Term and Conditions of Purchase

1. **Introduction & Scope:** These Tooling Terms and Conditions of Purchase (Terms) apply to purchase order contracts which utilize Buyer and/or Buyer Customer owned tooling (including racks), funded via lump sum payment(s) and/or through piece price amortization, used to manufacture/produce parts/assemblies ordered in separate purchase order contracts under ZF Global Terms & Conditions of Purchase. Purpose of these supplemental Terms are to set guidelines for ownership, maintenance, replacement, and responsibility of such tooling.
2. **Ownership of Tooling:**
 - 2.1: All tools are on loan or bailment to the Supplier, regardless of whether they have been produced by the Supplier or procured from a 3rd party.
 - 2.2 Any tooling related issues are the sole responsibility of the Supplier. It is the Supplier's responsibility to proactively inform Buyer when the tool requires replacement, Buyer may decide not to replace the tool based on the additional volumes required. If so, the Supplier will refund any accrued amount to Buyer that was funded by Buyer.
 - 2.3: If the tools are manufactured by the Supplier or procured from a 3rd party on behalf of Buyer, the ownership will transition to Buyer or Buyer's Customer upon completion of tool construction and/or receipt by Supplier from a 3rd party irrespective of the agreed payment conditions. The transfer of the tools in Supplier's possession shall be replaced by the fact that Buyer surrenders the tools to Supplier on a loan basis. The Supplier guarantees that immediately prior to the transfer of ownership to Buyer, it will hold sole ownership of the tools and that no third-party rights to the tools exist. Tool transfers are the responsibility of Supplier in these Terms.
 - 2.4: Modifications, repairs, or upgrades made to tools on behalf of Buyer remain under Buyer ownership.
 - 2.5: Tools are to be permanently marked or identified by the Supplier using Buyer standard tool identification plates or Buyer Customer tool identification plates, so they can easily be confirmed or identified as Buyer or Buyer's Customer property at any time.
 - 2.6: Supplier shall be obliged to contact the respective ZF buyer to receive tool tagging instructions. Supplier is responsible to adhere to those instructions.
 - 2.7: The Supplier will enter the tools in its account books as property of Buyer or Buyer's Customer.
 - 2.8: The Supplier is not authorized to transfer the tools wholly or partially to third parties, to pledge it, to grant third parties rights to it, or to sell it unless Buyer or Buyer's Customer has previously and expressly agreed to such a measure in writing.
 - 2.9: If the tools or parts thereof are to be erected at or used by sub-contractors, Supplier is obliged to obtain the advance written consent of Buyer or Buyer's Customer. If the tools or parts thereof are produced/stored/utilized by sub-contractors, Supplier must guarantee on-time and proper production/storage/utilization by means of regular time schedule and quality checks. The Supplier is expected to provide the documentation to Buyer within 24 hours of Buyer's request.
 - 2.10: A tool data sheet is to be prepared and maintained/updated on a quarterly basis for every tool in accordance with Buyer's instructions. Supplier is to provide an annual inventory showing the number and type of Buyer owned tools within Supplier's facilities, along with the age of the tools, summary of overall working conditions, warranted number of good parts since inception, and the remaining useful life in warranted number of good parts and time (i.e. weeks) based on forecasted volumes.
 - 2.11: The Supplier will keep records of the quantities manufactured with the tools as well as the costs for upkeep and care.
 - 2.12: After acquiring ownership of the tools, Buyer can at any time demand handover of the tools and any successor or changed tools as well as all instructions, technical documents, drawings, CAD 3D-models, other documents, and any item of testing or other equipment necessary for its operation from Supplier and its sub-contractors. The tools must be handed over to Buyer in a functioning condition that corresponds to the current drawing status within 2 days no exceptions. Supplier is to bear the costs of transport, packing and transport insurance associated with any claim to surrender tools to Buyer.
3. **Maintenance of Tooling:**

3.1: The Supplier is to treat the tools with reasonable care to avoid any preventative damages. In the case of functional defects, damage, or other circumstances that impair the proper use of the tools and that cannot be remedied without affecting the agreed delivery deadlines, Supplier must immediately inform Buyer in writing.

3.2: The Supplier will be responsible for maintaining and servicing the tools from a technical perspective and from a cost perspective. Damage to the tools is to be addressed both sufficiently and promptly by the Supplier to ensure no defects in the manufactured parts/assemblies or interrupted deliveries. Supplier is responsible for the care, maintenance and constant readiness for use of the tools, and bears the risk of damage, repair and/or deterioration for the tools. Supplier guarantees that the tools enable a sustained and fault-free manufacturing of the products for the manufacture of which Buyer issued the order for the tools, so that the demand of Buyer for volume and replacement parts is covered. If requested by Buyer, the Supplier will have on hand a set of spare-parts ready for all active parts of the tool.

3.3: The replacement of tools beyond warranted number of good parts is to be undertaken in reasonable time by the Supplier. The Supplier is responsible for forecasting when replacement tooling and/or components must be initiated and completed to avoid issues with worn or obsolete tooling during production. Such forecast shall account for the appropriate lead time, including but not limited to, lead time to build the tooling and/or components, time required to PPAP the tooling and/or components, a minimum of six (6) months for Buyer to obtain required internal approvals, and sufficient time to validate the part(s) to be produced by the tooling and/or components. Replacement tools will become the property of Buyer.

3.4: If the tool becomes lost or has become unusable under circumstances for which the Supplier is responsible, the Supplier is responsible for all costs required for replacement tooling and any and all other related costs (i.e. premium freight, etc.). The new tool will become the property of Buyer contractually in place of the lost or unusable tool.

3.5: Supplier is to store the tools on the cessation of mass or regular serial production free of charge for a minimum of fifteen (15) years after end of program, to meet the needs of Buyer for spare parts, and to keep them in a maintained state of readiness for use at any time. Supplier is to provide written notice to Buyer at least 6 months in advance of storage period expiration. Scrapping or any other form of disposal on the tools - even after the end of serial production - requires prior written approval of Buyer or Buyer's customer. Scrapping is the sole responsibility of Supplier unless otherwise directed by Buyer.

4. Intended Use:

4.1: The tools may only be used to execute orders from Buyer. Any other use is prohibited unless Supplier has prior written authorization from Buyer or Buyer's Customer. If Supplier wants to use the tools or parts thereof to manufacture products for the independent aftermarket, Buyer will not unreasonably withhold its approval and will agree with Supplier on a reasonable compensation fee.

4.2: If required and applicable, tools are to be constructed in accordance with the Buyer tool specifications.

5. Insurance:

5.1: The tools are to be insured by the Supplier for their new value or replacement cost against fire, theft and flood/water damage. Proof of insurance documentation is to be presented to Buyer within 48 hours of Buyer's written request.

5.2: Any damages to the tools, which makes them unusable or poses a threat to production and deliveries, must be communicated to Buyer immediately. Any claims for compensatory damages against third parties are to be transferred to Buyer within 60 days.

6. Transport:

6.1: The Supplier is responsible for the costs of transportation, packaging, and insurance in transit associated with the delivery and return of the tools.

6.2: Tooling costs must be declared in full on the first shipment of production goods - costs should be reflected in a separate line item on the Commercial Invoice. Any VAT issues related to the Supplier's failure to prepare and submit the proper documentation will be the sole responsibility of the Supplier (VAT payments, etc.).

7. Liabilities:

7.1: The Supplier will hold liability for ensuring that the condition of the tools and handling of the tools complies with Buyer's specifications for the manufacturing of the parts/assemblies, as well as applicable laws and safety regulations.

7.2: Claims for compensatory damages by the Supplier against Buyer are excluded, irrespective of legal reasoning.

8. Warranties:

Supplier shall provide a warranted number of good parts for all new tooling as part of the quotation to Buyer during the bidding/quotation phase. Supplier must honor contractual tooling warranties during the useful tool life, and also provide a forecast each calendar year with the timing of any upcoming tool warranty expiration.

9. Asset Reclamation:

9.1: Buyer will be entitled to demand the return of any or all tools made available to the Supplier with reasonable advanced written notice. Supplier will cooperate in such situations making the tooling assets readily available upon request.

9.2: Buyer will be entitled to demand the immediate return of the tools if the Supplier cannot guarantee to deliver goods in accordance with the quality standards, quantities, and dates specified by Buyer.

9.3: Regardless of any claims which the Supplier may have or be entitled to against Buyer as consequence of their business relationship, the Supplier will waive the assertion of any setoff rights to retain the tools in the event Buyer requests tooling to be returned, and/or the replacement tooling is not to be manufactured.

10. General:

10.1: Buyer will be entitled to inspect the tools and associated tooling documentation at the Supplier's facilities if it considers this to be necessary in the event of technical problems, delivery issues, suspicions of neglect, or for any other reasons deemed necessary. Supplier must submit tool designs to the responsible Buyer Supplier Development Engineer (SDE) for written concurrence. Final tool designs will be maintained on file at the Supplier's location and available to Buyer upon request.

10.2: The Supplier will be under an obligation to inform Buyer immediately of any threat/risk related to financial stability, including foreclosure, insolvency, etc. and take all the necessary steps or actions to protect the part supply and the rights of Buyer.

10.3: Amendments and additions to these Terms must be in writing.

10.4: Supplier is obliged to provide a tool invoice copy to Buyer and any other tooling documentation requested by Buyer and/or Buyer's customer upon completion of the tool PPAP approval previously provided by Buyer.

10.5: The Supplier is obliged to immediately notify Buyer in writing if an application to initiate insolvency proceedings over Supplier's assets has been filed, in particular in case of further application for insolvency under self-administration (protective shield procedure), or if a tool is seized by a third party or if a claim to a tool is asserted in any other way. In such cases, Supplier immediately provides Buyer with all the documents required for defense against third-party claims, and in the case of seizure in particular a copy of the seizure protocol, and in the case of insolvency a copy of the decision on the appointment of the (preliminary) liquidator or administrator.

10.6: In particular, in order to defend against enforcement proceedings, Supplier must formally inform third parties of the property right of Buyer and on request by Buyer immediately provide an affidavit that the tool is identical to the tool transferred to Buyer. Supplier is furthermore obliged to obtain written consent from Buyer or Buyer's Customer before the location of the tool is changed.

10.7: Buyer reserves the right to adjust the final tool delivery acceptance timing and/or date based upon changes in customer demand timing.

10.8: Buyer may inspect and audit Seller's facilities, books and records and check all molds, tools, tooling, dies, jigs, fixture, other capital equipment, processes, quality system, parts, documentations, costs and all other items related to any Order in such detail or manner as Buyer in its sole discretion shall determine. Seller shall retain all appropriate records for inspection or audit during the term of the Order and for a period of not less than two (2) years after the termination or expiration of an Order.