

Tooling Clauses

The following provisions (No. 1 to 11 Tooling Clauses) shall be valid for the tooling as mentioned in the above order positions.

1.

The Supplier shall produce the tooling for iwis motorsysteme along with the required documentation , including the technical specification, functions and performance data, in correspondence with the drawing and according to the best available technology, within the agreed production output and at the price that was agreed in the purchase order, and you shall keep iwis motorsysteme informed about the production progress.

2.

With confirmation of this purchase order, the Supplier transfers the property of the tooling in its respective state of production to iwis motorsysteme, while the Supplier will keep direct possession of the tooling.

After transfer of property, you will possess this tooling on behalf of iwis motorsysteme based on a hereby agreed borrowing contract according to these Tooling Clauses . iwis motorsysteme has the right to transfer property of the tooling to a third party at any time, as well as to assign the claim for return of the tooling separately.

3.

After completion of the tooling you shall deliver the agreed quantity of initial samples along with the complete tooling data sheet to iwis motorsysteme. The release of initial samples by iwis motorsysteme does not exempt you from contractual obligation nor from liability.

4.

Production of the tooling by a third party, cession of the tooling to a third party, and usage of the tooling for purposes apart from delivery to iwis motorsysteme (including cession of products and defective products to a third party) is only allowed along with acceptance in written form by iwis motorsysteme, even after termination of the contract. Changes on the tooling, no matter at what time and for what purpose, shall require acceptance in written form by iwis motorsysteme, as well.

5.

The Supplier shall apply the identification of property of iwis motorsysteme on the tooling right from the beginning of production, and attach signs showing inventory numbers of iwis motorsysteme. The Supplier shall prove evidence of identification in a proper way (e.g. photograph) by request of iwis motorsysteme at any time, as well as once a year on 31st of July by submission of an iwis tooling inventory form. The Supplier shall protect the tooling from interferences of third parties to the property of iwis motorsysteme, and inform iwis motorsysteme about interferences of third parties immediately.

6.

The Supplier shall handle the tooling carefully and guarantee at your expense to keep the tooling in a condition according to contractual commitments and legal and safety regulations, in order to be able to deliver products according to the contract to iwis motorsysteme in due time. The Supplier shall have all necessary service and maintenance work on the tooling carried out by qualified staff at his expense. The Supplier shall keep iwis motorsysteme informed about all actions done in written form. The Supplier shall indicate any (impending) failure to iwis motorsysteme immediately.

7.

The Supplier shall, until the tooling is transferred to iwis motorsysteme, insure the tooling at replacement value against common risks at his expense (for example theft, fire, lightning, explosion, windstorm and supply and sprinkling water damage) . The Supplier shall, as well, immediately transfer all claims for compensation of this insurance to us. Iwis motorsysteme will hereby accept this cession.

8.

The cession contract will be terminated after the last order of parts for whose production you need the tooling. Iwis motorsysteme has the right to cancel this cession contract without notice, in case there will be no conclusion of a delivery or frame contract, in case you cannot make sure deliveries at agreed quality level, quantity or delivery dates, in case your financial situation will degrade significantly, or in case of any insolvency proceedings applied or launched against your assets. A cancellation or other way of termination of the delivery contract or the frame contract shall include a cancellation or other way of termination of the borrowing contract, as well.

9.

After termination of the borrowing contract or any request by iwis motorsysteme prior to termination, you shall, immediately and at your expense, deliver the tooling in its respective state of production (along with all accessories, spare parts and documentation of production, handling and maintenance), or store the tooling by request of iwis motorsysteme in written form at your expense for a period of 15 years after termination of serial production by the car manufacturer, or scrap the tooling. The restitution of the tooling, under consideration of the state of production, age and service life, has to be provided in proper condition.

10.

The Supplier is entitled of rights of denial of performance or rights of retention against request of deliverance only in terms of legally binding or undisputed claims which have been accepted by iwis motorsysteme. Iwis motorsysteme has the right to avert rights of denial of performance or rights of retention against request of deliverance by providing a security which may be rendered by a debt guarantee.

11.

The above provisions for tooling shall be applied also for replacement tooling and subsequent tooling. The price for replacement tooling and subsequent tooling is compensated by payment of the first tooling, unless agreed otherwise. You shall inform iwis motorsysteme immediately about the necessity for the production of replacement tooling and its completion. The agreement on the transfer of property of replacement tooling to iwis motorsysteme is effected yet hereby dilatory to the receipt of your notice of completion. Yet by now, the parties shall agree that the cession contract for replacement tooling becomes effective at this moment.