

Terms and Conditions of Purchasing of Big Dutchman Group

§1 Scope

- (1) Our Terms and Conditions of Purchasing apply exclusively; we do not recognise conflicting conditions or terms and conditions of our suppliers which deviate from our own unless we have specifically agreed to this in writing beforehand. Our Terms and Conditions of Purchasing also apply when we accept a delivery from the supplier without any reservations although we are aware of conflicting conditions or terms and conditions of the supplier which deviate from our own.
- (2) All agreements which are made between us and the supplier for the purpose of executing this contract are to be documented in writing within this contract.
- (3) Our Terms and Conditions of Purchasing only apply vis à vis business persons
- (4) Our Terms and Conditions of Purchasing shall also apply to all future business transactions with the supplier.

§ 2 Bidding documents

We reserve all rights of ownership and copyright concerning all diagrams, drawings, calculations and other documents; third parties shall not have access to these without our express written agreement. They are to be used solely for manufacturing on the basis of our order; on completion of the order they are to be returned to us without any special request having to be made. Secrecy is to be observed vis à vis third parties.

§ 3 Pricing and conditions of payment

- (1) The price indicated in the order is binding. Unless a different agreement is made in writing, the price also comprises delivery free domicile, including packaging. Special agreement has to be made if the packaging is to be returned.
- (2) We can only process invoices if these - according to the instructions in our order - include a reference to the order number mentioned on the order; the supplier is responsible for all consequences which ensue as a result of ignoring this obligation unless he can provide evidence that this is not his responsibility.
- (3) Set-off rights and rights of retention shall apply within the normal legal scope.

§ 4 Delivery period

- (1) The delivery period indicated in the order is binding.
- (2) The supplier is obliged to inform us in writing immediately if circumstances arise or become recognisable to him which indicate that the agreed delivery period can not be adhered to.
- (3) In the case of a delay in delivery we shall be entitled to enforce the legally stipulated claims. In particular, we are entitled to demand compensation on account of non-fulfilment following fruitless expiry of a reasonable follow-up period.

§ 5
Transfer of risk - documents

- (1) Delivery is to follow free domicile providing nothing contrary has been agreed in writing.
- (2) The supplier is obliged to enter our order number correctly on all shipping documents and delivery notes; if he omits to do this then we cannot be responsible for delays in processing.

§ 6
Warranty

We are entitled to legal Warranty claims in their full form; independently of these rights, we are entitled to demand removal of defects or a replacement delivery by a supplier of our own choice. In this case the supplier shall be obliged to bear all the necessary expenses to remove the defects or execute the replacement delivery. This includes expenses for our Handling costs and Transportcosts which are caused by default parts or default deliveries of the Supplier. The right to compensation, in particular to compensation on account of non-fulfilment shall remain expressly unaffected.

§ 7
Product liability - exemption - third party liability insurance protection

- (1) Insofar as the supplier is responsible for product damage, he shall be obliged to exempt us from damage claims made by third parties at our first request, because the cause is located in his area of control and organisation and he is liable himself in the external relationship.
- (2) In the scope of his liability for cases of damage within the meaning of paragraph (1) the supplier is also obliged to reimburse any expenses which are legally provided for ensuing from, or in connection with, a recall action conducted by us. Concerning the content and extent of the recall measures to be conducted, we shall inform the supplier - insofar as possible and reasonable - and offer him the possibility to state his point of view.
- (3) The supplier shall be obliged to maintain a product liability insurance policy with an insured sum of up to Euro 5 million per personal injury and damage to property - overall - ; if we are entitled to further claims for compensation, these shall remain unaffected.

§ 8
Retention of title - provision of parts - tools - secrecy

- (1) Insofar as we make parts available to the supplier, we shall reserve the right of ownership of these. Processing or conversion by the supplier shall be undertaken for us. If our reserved property is processed together with other objects which do not belong to us, then we shall acquire co-possession to the new item in the proportion of the value of our object (purchase price plus VAT) to the other items processed at the time of the processing.
- (2) If the object provided by us is mixed in an inseparable way with the items which do not belong to us, then we shall acquire co-ownership of the new item in the proportion of the value of the reserved property (purchase price plus VAT) to the other items mixed at the time of the mixing. If the mixing takes place in such a way that the supplier's object is to be seen as the main object, then it shall be considered as agreed, that the supplier assigns proportional co-ownership to us. The supplier maintains custody of the sole ownership or co-ownership for us.

- (3) We reserve the right to ownership of our tools; the supplier shall be obliged to use the tools solely for the manufacture of the goods ordered by us. The supplier is obliged to insure the tools belonging to us at his own expense for the new value against damages caused by fire, water and theft. At the same time the supplier shall assign to us already now all claims to damages in connection with this insurance policy; we herewith accept the assignment. The supplier is obliged to carry out any required servicing and maintenance work in good time at his own expense. He is to inform us of any incidents immediately; if he omits to do this due to his own negligence, claims for damages shall remain unaffected.
- (4) The supplier is obliged to observe strict secrecy with regard to all diagrams, drawings, calculations and other documents and information received from us. These shall only be revealed to third parties with our express agreement. The obligation to observe secrecy continues to apply even after termination of this; this obligation shall only cease to exist if and insofar as the manufacturing knowledge contained in the diagrams, drawings, calculations and other documents becomes general knowledge.
- (5) Insofar as the security interests due to us according to paragraph (1) and or paragraph (2) exceed the purchase price of all our reserved goods which have not yet been paid for by more than 20%, we shall be obliged to release the security interests according to our choice at the supplier's request.

§ 9

Place of jurisdiction - Place of fulfilment

- (1) Insofar as the supplier is a correct businessman, our business location shall be the place of jurisdiction; we are, however, also entitled to take action against the supplier at the court nearest to his business location.
- (2) Insofar as nothing otherwise ensues from the order, place of fulfilment shall be our business location.