

Applicable from: 16.08.2008

General terms of sale and supply
ISCO
B + W Filterfabrik GmbH & Co. KG

I General

1. These general terms of sale and supply apply to all present and future business transactions with businesses (hereinafter referred to as “the ordering party”). In the case of any doubt as to interpretation, the German version shall be decisive. Businesses are individuals or legal entities, or legally constituted private limited companies, with whom a business relationship has been formed, and who are acting in the exercise of their commercial or independent professional occupation.

2. Any terms and conditions at variance with, contradictory to, or supplementary to these terms and conditions, even where we are aware of them, shall not form part of any contract, unless expressly agreed in writing.

II. Quotation and entering into contract

1. Unless otherwise expressly stipulated all quotations are non-binding. A contract is made by means of our written confirmation of order, which states our agreement to the object, the scope, the price and conditions of the goods supplied, and excludes any verbal agreements and supplementary arrangements. Where we have issued a quotation binding for a period of time, and it is accepted within that period, if no confirmation of order is issued within the period, then the quotation is decisive.

2. The documents relating to the quotation, such as illustrations, drawings, weight and dimensions data are deemed to be approximate, unless otherwise expressly described as binding. We reserve all property rights and copyrights on cost proposals, drawings, software, brochures and other documents. Such documents must not be made available to others. We undertake to pass plans designated by the ordering party as confidential to others, only with the permission of the ordering party.

III. Prices

1. All prices are understood to be ex works, and exclude packaging, freight and insurance, which

are payable by the ordering party. Value Added Tax at the current statutory rate is added to the prices.

2. Where no special agreement is in place, payment is to be made in cash in advance without discount and in full to our payment point. Payment becomes due on receipt by the ordering party of the confirmation of order.

3. In the event of late payment, late payment interest will be applied at the rate of 8% points above the applicable European Central Bank (ECB) base rate.

4. We reserve the right to supply goods cash on delivery. We allow a 2% discount on the amount of the invoice where payment is made within 14 days of the date of invoice. This excludes invoices for repairs and/or spare parts.

5. Cheques and discountable bills of exchange are accepted under the usual reservations. They are credited at the value of the day on which the equivalent of the bill is available to us. Discount, bank and collection charges are payable by the ordering party.

6. In the event of a negative estimation of, or an adverse change to the ordering party's financial position while an agreed instalment plan is in place, or while a bill of exchange is in our hands, we reserve the right to demand immediate payment of the full amount before the end of the period, or to cancel the contract while maintaining a claim to damages.

7. The ordering party has the right to offset only in the case that any counterclaim made is established in law or has been acknowledged by us. The ordering party has a right of retention only where a counterclaim relates to the same contractual relationship.

IV. Delivery lead time

1. The delivery lead time starts on the date that the confirmation order is sent, however it shall not begin before the ordering party has provided the documents, permissions, approvals that are required, nor before receipt of the down payment.

2. The delivery date has been met if, by the date of delivery the delivery items have left the factory, or notification of readiness for despatch has been sent.

3. The delivery deadline shall be extended appropriately in the event of labour disputes, particularly strikes and lock-outs, or in the event of unforeseen impediments outside our control or where such impediments considerably affect our ability to manufacture or supply the goods items. This also applies in the case where such circumstances occur with our upstream suppliers. Nor do we accept responsibility for the above-mentioned circumstances where they occur during an existing period of delay. We shall notify the ordering party of the start and end of such impediments as soon as is possible.

4. If despatch should be delayed at the request of the ordering party, the cost of storing the goods, - and, where stored at the works this is calculated at 0.5% of the invoiced amount for each month - will be charged to the ordering party, starting one month after notification of readiness to dispatch has been sent. We are entitled to set an appropriate time limit, and then, once that time limit has expired without notice, to dispose elsewhere of every goods item concerned, and to commit ourselves in that regard, and to deliver to the ordering party under an appropriately extended period.

5. Our compliance with the delivery lead time requires that the ordering party also complies with its contractual undertakings.

6. In the event that the ordering party does not accept the goods or cancels a contract before the goods are delivered, the ordering party must reimburse us with 25% of the invoiced amount in cancellation costs and lost profit. The ordering party is at liberty to provide evidence that we have incurred no damages, or that damages were considerably lower than the flat-rate amount stated above.

V. Transfer of risks

1. The risk is transferred to the ordering party at the latest at the moment that the supplied parts are dispatched, even in the case of partial deliveries, or where we are also providing other services, such as the carriage costs or transportation and erection/assembly work. At the request of the ordering party, we will insure the consignment, at the ordering party's expense, against theft, breakage, transport, fire and water damage, and other insurable risks.

2. In the event that despatch is delayed as a result of circumstances for which the ordering party is responsible, the risk is transferred to the ordering party on the date that the consignment is ready for despatch. If requested, and at the ordering party's expense, we undertake to effect the insurance required by the ordering party.

3. The ordering party undertakes to accept the items supplied, even where they indicate slight defects, without prejudice to any other rights he might have.

4. An application for or the opening of insolvency procedures against the assets of the ordering party shall entitle us, without prejudice to any other rights we may have, to cancel the contract and to demand the immediate return of the goods supplied.

VI. Reservation of property rights

1. We reserve ownership of the goods until all our claims arising from the current business relationship have been settled in full. The ordering party undertakes to handle the goods with care. If maintenance and inspection work is required, the ordering party must carry out such work at its own expense.

2. We are entitled to insure the goods supplied, at the expense of the ordering party, against theft, breakage, fire, water and other damage, unless the ordering party has itself effected such insurance, and provided evidence thereof.

3. The ordering party is not permitted either to pledge the goods or to use them as security. The ordering party must inform us without delay of any garnishment order, seizure or other official orders made by third parties.

4. In the event that the ordering party breaches the contract, particularly with regard to late payment, we shall be entitled, following the due warning process, to repossess the goods supplied and the ordering party undertakes to hand them over. Action taken by us to apply our property retention rights and seize the supplied item shall not be deemed to be a cancellation of the contract.

5. The ordering party is entitled to dispose of the goods using standard business practices. The ordering party shall cede to us, now, all claims against a third party in the amount of the invoiced amount that have arisen as a result of such disposal. We accept such assignment. Following such assignment the ordering party is authorised to collect the receivable claim. We reserve the right to collect the receivable claim ourselves where the ordering party has not met its payment obligations in a proper manner and/or has fallen into payment arrears.

6. Any processing or manufacturing processes carried out on the goods by the ordering party shall at all times be in our name and on our behalf. Should such further processing take place together with goods that do not belong to us, we shall acquire co-ownership of the new items in

proportion to the value of the goods against the other items processed with them. The same applies if the goods are mixed with other goods that do not belong to us.

VII. Warranty

1. In the event of a defect in the goods supplied we will meet our warranty obligation by electing either to repair or re-supply (replacement supply) at our choice.
2. The ordering party must assert any claim for defects without delay in writing.
3. Wearing parts are excluded from the warranty. Furthermore, a prerequisite to any warranty claim by the ordering party is that all our instructions relating to usage, maintenance and storage of the goods supplied have been observed, in particular the instructions contained in the user manual. Our warranty liability does not include any deterioration or damage caused to the supplied goods for which the ordering party is responsible – in particular as a result of inappropriate or incorrect use, where operating instructions are ignored, nor does it cover incorrect assembly or incorrect start-up by the ordering party or by third parties, natural wear and tear etc.
4. The ordering party must allow us the necessary time and opportunity to make any improvements or supply the replacements that appear to us to be appropriate, otherwise the warranty claim shall lapse. Only in urgent cases where operating safety is at risk, and to prevent disproportionately large damages, or in the event that we delay in repairing the defect, does the ordering party have the right to remedy the defect itself or have it remedied by a third party, and to demand from us reimbursement of the necessary expenses. Even in such a case, we must be made aware in advance immediately of the intention to carry out a replacement.
5. It is our choice to elect the place where the repair is to be carried out. The repair will be carried out at the premises of the ordering party, if to do otherwise would be only at an unreasonably high cost. The warranty period for the supplied goods, including any spare parts that may be installed, shall be extended by the period of the repair work.

VIII. Liability

1. In the event of deliberate or gross breach of our obligations, such as culpable injury to life, limb or health, we shall be liable for all damage arising therefrom, unless otherwise stipulated by the law.
2. In the case of gross negligence by non-managerial staff our liability for material and financial

damage is limited to the foreseeable damage in standard contractual practice.

3. In the case of slight negligence we shall be liable for material and financial damage only in the case of a breach of substantial contractual obligations. Here too our liability is restricted to foreseeable damage in standard contractual practice.

4. Any liability to damages beyond that stated in the preceding paragraphs is excluded – without regard to the claim asserted within the due period. This applies in particular to prohibited action as stated in articles 823, 831 of the BGB (German Civil Code); any unlimited liability in accordance with the provisions of the German Product Liability law shall be unaffected hereby.

IX. Period of limitation

1. Any claim by the ordering party, based on whatever reason in law, in particular a warranty claim, shall expire one year after the goods have been supplied.

2. This shall not apply in the event that we or our legal representatives can be accused of deliberate or gross culpability, culpable injury to life, limb or health, of defects about which we have maliciously maintained secrecy, or that we have guaranteed not to be present, nor for defects to the goods where liability for personal or material damage is given under the product liability legislation. In such cases, the statutory time periods apply.

X. Partial performance, diminution, cancellation of contract

1. We are entitled to make partial deliveries unless it is unreasonable for the ordering party to accept such partial deliveries taking into account its own justified interests.

2. In the event of a warranty claim, should the post-performance fail, the ordering party may demand, in principle, to choose to claim a reduction in the sum payable (diminution) or to cancel the contract (cancellation). In consideration of the provisions made in VIII of these general terms and conditions, the ordering party shall have no claim to damages, nor are we liable for any loss of profit or damages arising from production stoppage. The ordering party has no right to cancel the contract where the breach of contract is only minor, in particular in the case of minor defects.

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XI. Place of performance and jurisdiction

1. The law of the Federal Republic of Germany shall apply exclusively to this contract.
2. The place of performance for claims and obligations is Gottingen/Germany.
3. The place of jurisdiction is Göttingen, including for any complaints regarding processes concerning bills of exchange and cheques, and for complaints against third parties liable for the undertakings made by the ordering party, unless a different place of jurisdiction has been statutorily and compulsorily stipulated.
4. Should any individual provisions of the contract with the ordering party, including these general terms and conditions of sale and supply be or become ineffective in law, either in whole or in part, the validity of the other provisions shall not be affected. The provision that has become ineffective either in full or in part shall be replaced by another that comes as close as possible to the economic intent of the ineffective clause.

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