

# General conditions of sale

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**Insulation solutions for  
windows, doors, and facades**

# General conditions of sale

## Technoform Insulation Solutions Kassel GmbH

### Section 1: Scope

1. These General Conditions of Sale (GCSs) apply to all our business relations with our customers ("Buyers"). The GCSs only apply if the Buyer is an enterpriser (according to Section 14 of the German Civil Code (Bürgerliches Gesetzbuch, BGB)), a legal entity under public law or a special fund under public law.
2. These GCSs apply exclusively and also to all equivalent future contracts, without us having to refer hereto in each individual case.
3. Deviating, contradictory or supplementary conditions on the part of the Buyer shall not apply. This is also the case if we do not explicitly object to their application.
4. These GCSs have been set down in duplicate in English and German. In the event of discrepancies between the German and English text of these GCSs, the German text shall be decisive.

### Section 2: Contractual conclusion

1. Our offers are non-binding and subject to change. This also applies if we have provided the Buyer with catalogues, technical documentation (e.g. drawings, plans, calculations, estimates, references to DIN standards, models and tools), other product descriptions or files – including in electronic form – to which we retain ownership rights and copyrights.
2. When the Buyer submits an order for goods, this is considered a binding offer of contract. Unless otherwise determined by the order, we are permitted to accept this offer of contract within two weeks of its receipt.
3. Acceptance may be declared either in text form (e.g. with an order confirmation) or upon delivery of the goods to the Buyer.

### Section 3: Delivery period and default in delivery

1. The delivery period shall be agreed individually or stated by us upon acceptance of the order. Delivery periods and delivery dates refer to the time of handover to the forwarder, carrier or other agent commissioned for delivery.
2. Following consultation with the Buyer, we shall be permitted to provide partial deliveries and partial services, insofar as this is reasonable for the Buyer.
3. Where we are unable to comply with binding delivery periods for reasons for which we are not responsible (non-availability of service), we shall inform the Buyer promptly and also communicate the expected new delivery period. If the service is also unavailable within the new delivery period, we shall be permitted to withdraw from the contract in part or in whole; we shall promptly refund any consideration of the Buyer already provided. Non-availability of the service is deemed to exist, for example, in the event of non-punctual self-delivery by our suppliers, if we have concluded a congruent covering transaction, in the event of other disruptions in the supply chain such as force majeure or if we are not obliged to procure goods in the individual case.
4. The rights of the Buyer in accordance with Section 10 of these GCSs and our statutory rights, in particular in the exclusion of the service obligation (e.g. due to the impossibility or unreasonableness of service and/or subsequent fulfilment), remain unaffected.

### Section 4: Delivery, transfer of risk, acceptance and default in acceptance

1. Delivery shall occur ex works at Korbacher Straße 173, 34132 Kassel, Germany which is also the place of fulfilment for the delivery and any

subsequent fulfilment. At the request and expense of the Buyer, the goods shall be sent to a different destination (consignment purchase). Unless otherwise agreed, we are permitted to determine the type of consignment (in particular, the transport company, dispatch route and packaging) ourselves.

2. The risk of accidental loss and accidental deterioration of the goods shall be transferred to the Buyer at the latest upon handover. In the case of consignment purchase, however, the risk of accidental loss and accidental deterioration of the goods and the risk of delay shall already be transferred upon provision of the goods to the forwarder, carrier or other agent commissioned with handling the consignment. Insofar as an acceptance is agreed, this shall be decisive for the transfer of risk. In other respects, the statutory provisions of services contract law shall also apply accordingly to an agreed acceptance. Handover or acceptance shall be unaffected if the Buyer enters into default in acceptance.
3. Should the Buyer enter into default in acceptance or if the Buyer fails to cooperate or if our delivery is delayed for other reasons for which the Buyer is responsible, we shall be permitted to demand compensation of the damages thereby incurred including additional expenses (e.g. storage costs).
4. Technoform transport frames remain the property of Technoform Insulation Solutions Kassel GmbH and are provided without charge for the first three months after delivery. The transport frames must be returned to Korbacher Straße 173, 34132 Kassel, Germany.

### Section 5: Duties of the Buyer

1. If product components are supplied by the Buyer, the Buyer shall be obliged to deliver these free to our factory in due time in a faultless condition and in sufficient quantity. Should the Buyer fail to cooperate or if our delivery is delayed for other reasons for which the Buyer is responsible, we shall be permitted to demand compensation for the damages thereby incurred including additional expenses (e.g. storage costs).
2. If we are to manufacture and deliver goods according to drawings, models or samples or with the use of parts provided by the Buyer, the Buyer shall ensure that this does not violate any third-party protective rights.

### Section 6: Tools for manufacture

1. We remain the owner of all forms of tools, which we have manufactured at the instruction of the Buyer. The Buyer has no claims to transfer of title, provision or utilisation with respect to the manufactured tools. They are considered aids for execution of the order; the Buyer shall bear the costs of manufacture including any appropriate changes. The manufactured tools shall be stored by the Buyer for a maximum of two years after the last order.

### Section 7: Prices and payment conditions

1. Unless otherwise agreed in individual cases, our current prices at the time of contract conclusion shall apply; these prices apply ex works in addition to the statutory value added tax.
2. In the case of consignment purchase, the Buyer shall bear the transport costs ex works and the costs of any transport insurance requested by the Buyer. The Buyer shall bear any customs duties, fees and other public fees.
3. All payments must be made in euros. The purchase price is due and payable within 14 days of the invoice date and delivery or acceptance of the

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invoice date and delivery or acceptance of the goods. However, we are permitted at any time to perform a delivery in part or in whole only upon payment in advance, including in connection with an ongoing business relationship. We shall declare a condition to this effect no later than upon order confirmation.

4. The Buyer shall enter into default upon expiry of the above payment period. The purchase price shall be subject to interest at the respectively applicable rate of default interest during the period of default. We reserve the right to assert further default damages. With respect to merchants, our claim to commercial maturity interest (Section 353 of the German Commercial Code (Handelsgesetzbuch, HGB)) remains unaffected.
5. The Buyer shall only be entitled to set-off or retention rights insofar as their claim is legally determined or undisputed. In case of defects of the delivery, the counterclaims of the Buyer remain unaffected.

### Section 8: Reservation of ownership

1. We reserve ownership of the sold goods until complete payment of all our current and future receivables arising from the purchase agreement and an ongoing business relationship (secured receivables).
2. The goods subject to the reservation of ownership may not be pledged to third parties nor assigned by way of security prior to complete payment of the secured receivables. The Buyer must promptly inform us in writing if an application to open insolvency proceedings is filed or if the interventions of third parties (e.g. seizures) take place with respect to the goods in our ownership.
3. In the event that the Buyer acts in a manner contrary to the contract, in particular in the case of non-payment of the due purchase price, we shall be permitted to withdraw from the contract according to the statutory provisions and/or demand the return of the goods on the basis of the reservation of ownership. The demand to return such goods shall not also constitute a declaration of withdrawal from the contract; instead, we shall be permitted to merely demand the return of the goods and reserve the right to withdraw from the contract. Should the Buyer fail to pay the due purchase price, we may only assert these rights if we have previously set the Buyer an appropriate period for payment without success or the setting of such a period is not necessary according to the statutory provisions.
4. The Buyer is permitted to resell and/or process the goods subject to the reservation of ownership in the ordinary course of business until revocation according to c) below. In this case, the following conditions also apply.
  - a) The reservation of ownership shall encompass products that arise from the processing, mixing or combination of our goods at their full value; we shall be deemed the manufacturer in this connection. In the event that the goods are processed, mixed or combined with the goods of third parties and such third parties retain their right of ownership, we shall acquire co-ownership in the ratio of the invoice values of the processed, mixed or combined goods. In other respects, the same provisions applicable to the goods supplied subject to the reservation of ownership shall apply to the resulting product.
  - b) The Buyer shall hereby assign to us as security the receivables against third parties arising from the resale of the goods or the products in total or respectively in the amount of our co-ownership share in accordance with the above paragraph. We hereby accept the assignment. The duties of the Buyer specified in Paragraph 2 shall also apply in relation to the assigned receivables.
  - c) The Buyer remains authorised to collect the receivable in addition to ourselves. We undertake not to collect the receivable for as long as

the Buyer complies with their payment obligations to us, there is no defect in its capacity and we do not assert the reservation of ownership by way of exercising a right pursuant to Paragraph 3. However, if this is the case, we may demand that the Buyer discloses to us the assigned receivables and their debtors, informs us of all information necessary to carry out collection, provides us with the associated documents and communicates the assignment to the debtors (third parties). Moreover, we shall also be permitted in this case to revoke the authorisation of the Buyer to resell and process the goods subject to the reservation of ownership.

d) Should the realisable value of the securities exceed our receivables by more than 10 %, we shall release securities at our choice upon the request of the Buyer

### Section 9: Claims for defects of the Buyer

1. As a rule, we shall not be liable for defects of which the Buyer is aware upon contract conclusion or is unaware through gross negligence (Section 442 BGB). Furthermore, the claims for defects of the Buyer are subject to the condition that the Buyer has complied with their statutory duties to inspect and report defects (Sections 377 and 381 HGB). In the case of construction materials and other goods intended for integration or another form of further processing, such inspection must take place in any case prior to processing. If a claim is determined upon delivery, inspection or at any later time, we must be informed in writing immediately. In any case, obvious defects must be reported in writing within five working days of delivery and claims not recognisable upon inspection within the same period from their discovery. Should the Buyer fail to perform due inspection and/or to report the defect, our liability for the unreported or non-punctually or improperly reported defect shall be excluded in accordance with statutory provisions. In the case of goods intended for integration, attachment or installation, this shall also apply if the defect only becomes recognisable after the corresponding processing due to a breach of one of these duties; in this case, there shall in particular be no claims of the Buyer to the reimbursement of corresponding costs ("disassembly and integration costs").
2. If the supplied good is defective, we may first choose whether to perform subsequent fulfilment through rectification of the defect (subsequent improvement) or through delivery of a non-defective good (substitute delivery). If the form of subsequent fulfilment chosen by us is unreasonable for the Buyer in individual cases, the Buyer may refuse it. Our right to deny subsequent fulfilment under the statutory requirements remains unaffected.
3. The Buyer must provide us with the necessary time and opportunity for the due subsequent fulfilment and in particular hand over the good subject to complaint for inspection purposes. In the event of substitute delivery, the Buyer must return to us the defective good at our request according to statutory provisions; however, the Buyer shall have no entitlement to return the defective good. Subsequent fulfilment includes neither the disassembly, removal or deinstallation of the defective good nor the installation, attachment or assembly of the non-defective good, if we were not originally obliged to render these services; claims of the Buyer to the reimbursement of corresponding costs ("disassembly and integration costs") remain unaffected.
4. We shall bear or reimburse the expenses required for the purpose of inspection and subsequent fulfilment, in particular transport,

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carriage, work and material costs as well as any disassembly and installation costs, in accordance with the statutory provisions and these GCSs if a defect is actually deemed to exist. Otherwise, we may demand from the Buyer the reimbursement of the costs incurred due to the unjustified defect rectification request if the Buyer knew or should have recognised that no defect actually existed.

5. Claims of the Buyer to the reimbursement of expenses in accordance with Section 445a (1) BGB are excluded, unless the last contract in the supply chain is a consumer good purchase (Sections 478 and 474 BGB) or a consumer contract on the provision of digital products (Sections 445c (2), 327 (5) and 327u BGB). Claims of the Buyer to compensation or the reimbursement of futile expenses (Section 284 BGB) shall only exist according to the following Sections 10 and 11 even in the event of defects of the good.

### Section 10: Other liability

1. Unless otherwise regulated by these GCSs including the following provisions, we shall be liable for a breach of contractual and extracontractual duties according to the statutory provisions.
2. Irrespective of the legal basis, we shall be liable for compensation in the context of fault-based liability for intent and gross negligence. In the case of slight negligence, we shall only be liable for the following damages subject to statutory liability restrictions (e.g. due care in our own affairs; immaterial breach of duty):
  - a) for damages due to injury to life, limb or health;
  - b) for damages due to the breach of an essential contractual duty (a duty whose fulfilment makes the proper execution of the contract possible in the first place and in whose compliance the contracting party may regularly trust); in this case, however, our liability is limited to the compensation of the foreseeable and typically occurring damage.
3. The liability restrictions in Paragraph 2 shall also apply with respect to third parties and in the case of breaches of duty by persons (including for their benefit), whose fault does not lie within our responsibility in accordance with statutory provisions. They do not apply insofar as a defect was concealed in bad faith or a guarantee was assumed for the quality of the good and for claims of the Buyer according to the Product Liability Act.
4. The Buyer may only withdraw from or terminate the contract due to a breach of duty, which does not relate to a defect, if we are responsible for the breach of duty. A free right of termination on the part of the Buyer (in particular according to Sections 650 and 648 BGB) is excluded. In other respects, the statutory requirements and legal consequences apply.

### Section 11: Limitation

1. In deviation from Section 438 (1) No. 3 BGB, the general limitation period for claims arising from material and legal defects shall amount to one year from delivery. Insofar as acceptance is agreed, the limitation period shall commence upon acceptance.
2. If the good is a structure or a good that has been used for a structure in accordance with its customary use and has caused its defectiveness (construction material), the limitation period shall amount to five years from delivery in accordance with the statutory provision (Section 438 (1) No. 2 BGB). Further statutory special provisions on limitation remain unaffected (in particular Section 438 (1) No. 1 and (3) and Sections 444

and 445b BGB).

3. The above limitation periods of sales law also apply to contractual and extracontractual compensation claims of the Buyer, which relate to a defect of the good, unless the application of ordinary statutory limitation (Sections 195 and 199 BGB) would result in a shorter limitation period in the individual case. Compensation claims of the Buyer according to Section 8 (2) Clauses 1 and 2 (a) as well as according to the Product Liability Act shall expire exclusively in accordance with the statutory limitation periods.

### Section 12: Export

1. The export of the goods supplied by us is only permitted with our explicit consent.

### Section 13: Legal action

1. The Buyer must bear all necessary fees, costs and expenses that are incurred in connection with any successful legal action aimed against them outside of Germany.
2. We are permitted to assign our receivables against the Buyer to third parties.

### Section 14: Choice of law and jurisdiction

1. The law of the Federal Republic of Germany – with the exclusion of international uniform law, in particular the UN Sales Convention – applies to these GCSs and the contractual relationship between us and the Buyer.
2. If the Buyer is a merchant within the meaning of the German Commercial Code, a legal entity under public law or a special fund under public law, the exclusive and international jurisdiction for all disputes arising directly or indirectly from the contractual relationship is our registered address in Kassel. The same applies accordingly if the Buyer is an enterpriser within the meaning of Section 14 BGB. However, in every case we shall also be permitted to take legal action at the place of fulfilment of the delivery obligation in accordance with these GCSs or an overriding individual agreement or at the general jurisdiction of the Buyer. Overriding statutory provisions, in particular on exclusive competencies, remain unaffected.