

TERMS AND CONDITIONS

This document is important as it forms part of your contract with us for the provision of goods specified in your order.

1. Interpretation

- 1.1 The following definitions shall apply to these terms and conditions:
- **"contract"** means the contract between you and us for the sale and purchase of goods in accordance with these terms.
- **"goods"** means the goods you have agreed to purchase from us, as specified in your order.
- **"order"** means each order you have placed with us for the provision of the goods.
- **"price"** means the price specified in our quote for the provision of the goods.
- **"terms"** means these terms and conditions.
- **"we", "us" and "our"** means EPD Insulation Group Limited a company registered in England and Wales No. 07606553 with registered office at Newark Road, Peterborough, PE1 5YD.
- **"you" and "your"** means you as the customer and purchaser of the goods.

2. Basis of Contract

- 2.1 These terms apply to the contract to the exclusion of any other terms that you seek to impose or incorporate, or which are implied by trade, custom, practice or course of dealing.
- 2.2 Each order constitutes an offer by you to purchase the goods in accordance with these terms. You are responsible for ensuring that the terms of each order and any applicable specifications are complete and accurate. Each order shall only be deemed to be accepted when we send you written acceptance of the order, at which point your contract with us will be formed.
- 2.3 This contract constitutes the entire agreement between you and us. You acknowledge that you shall not rely upon any statement, promise, representation, assurance or warranty made or given by or on behalf of us which is not set out in this contract.
- 2.4 All brochures, catalogues and other promotional materials are to be treated as illustrative only. Their contents form no part of this contract and you should not rely on them in entering into this contract.
- 2.5 Any waiver or variation of these terms is binding in honour only unless:
 - 2.5.1 made (or recorded) in writing;
 - 2.5.2 signed on behalf of each party; and
 - 2.5.3 expressly stating an intention to vary these terms.
- 2.6 All orders that you place with us will be on these terms (or any that we may issue to replace them) and a separate contract shall be formed in respect of each order accepted by us. By placing an order with us, you are expressly waiving any printed terms you may have to the extent that they are inconsistent with terms.

3. Price

- 3.1 The price quoted excludes VAT (unless otherwise stated). VAT will be charged at the rate applying at the time of delivery.
- 3.2 Our quotations lapse after 30 days (unless otherwise agreed) and shall not constitute an offer.
- 3.3 The price quoted excludes delivery (unless otherwise stated).
- 3.4 Unless otherwise stated, the price quoted is an illustrative estimate only and the price charged will be our price current at the time of delivery. Our current prices are stated in our current price list which is available on request.
- 3.5 Rates of tax and duties on the goods will be those applying at the time of delivery.
- 3.6 At any time before delivery we may adjust the price to reflect any increase in our costs of supplying the goods or to reflect factors beyond our control (including, but not limited to, foreign exchange fluctuations, fluctuations in international shipping costs or tax increases).
- 3.7 We reserve the right to adjust our price at any time if:
 - 3.7.1 you change the quantity of the goods,
 - 3.7.2 you change your specifications in relation to the goods; or
 - 3.7.3 you request to change the delivery time.

4. Delivery

- 4.1 All delivery times quoted are estimates only and the time of delivery is not of the essence.
- 4.2 If you accept delivery of the goods after the estimated delivery time, it will be on the basis that you have no claim against us for delay (including indirect or consequential loss, or increase in the price of the goods).
- 4.3 Delivery takes place either:
 - 4.3.1 at our premises (if you are collecting them or arranging carriage); or
 - 4.3.2 at your premises (if we are arranging carriage);
 - 4.3.3 as otherwise arranged between you and us in writing.
- 4.4 You must inspect the goods on delivery. If any goods are damaged (or not delivered), you must write to tell us within five working days of delivery (or the expected delivery time). You must give us (and any carrier) a fair chance to inspect the damaged goods.
- 4.5 We may decline to deliver if:
 - 4.5.1 we believe that it would be unsafe, unlawful or unreasonably difficult to do so; or
 - 4.5.2 the premises (or the access to them) are unsuitable for the delivery vehicle.
- 4.6 We may deliver the goods in instalments. Each instalment is treated as a separate contract. Any delay in delivery or defect in an instalment shall not entitle you to cancel any other instalment.
- 4.7 You will be responsible for paying for all delivery costs, which will be payable in addition to the price and invoiced separately (unless we have stated otherwise).
- 4.8 In the event that the materials in any of the goods supplied by us are incorrect and/or unsuitable for the required or anticipated application, you must not install them nor incorporate them into any other goods or products.
- 4.9 Without prejudice to any other term or condition of these terms or any other provision of any contract, but subject always to clause 7.7, we shall not be liable for any loss or damage (including indirect or consequential loss, financial loss, loss of profits or loss of use) arising from any breach by you of clause 4.8 irrespective of whether or not we have been negligent in the supply of any such unsuitable materials.

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5. Payment Terms

- 5.1 You are to pay us in cash on delivery, unless you have an approved business credit account.
- 5.2 If you have an approved business credit account, payment is due on the 28th day of the month after that in which we deliver the goods, unless otherwise agreed in writing.
- 5.3 Time shall be of the essence in respect of all payments due under this contract, as set out in our invoices.
- 5.4 If you fail to pay us in full on the due date:
 - 5.4.1 we may suspend or cancel future deliveries;
 - 5.4.2 we may cancel any discount offered to you;
 - 5.4.3 you must pay us interest at the rate set for the purposes of s6 of the Late Payment of Commercial Debts (Interest) Act 1998:
 - a. calculated (on a daily basis) from the date of our invoice until payment;
 - b. compounded on the first day of each calendar month; and
 - c. before and after any judgment.
- 5.5 If you have an approved credit account, we may withdraw it or reduce your credit limit

or bring forward your due date for payment. We may do any of those at any time without notice. You do not have the right to set off any money you may claim from us against anything you may owe us.

- 5.6 While you owe money to us, we have a lien on any of your property in our possession.
- 5.7 You are to indemnify us in full and hold us harmless from all expenses and liabilities we may incur (directly or indirectly and including legal costs) following any breach by you of any of your obligations under these terms.

6. Title and Risk

- 6.1 The risk in the goods shall pass to you on delivery.
- 6.2 Subject to clause 6.4, title to the goods shall not pass to you until (a) you have paid us in full (in cash or cleared funds) for all goods we have supplied to you or (b) all goods have been irrevocably incorporated into another product.
- 6.3 Subject to clause 6.4, until title to the goods has passed to you, you shall:
 - 6.3.1 store the goods separately from all other goods you hold so that they remain readily identifiable as the our property;
 - 6.3.2 not remove, deface or obscure any identifying mark or packaging on or relating to the goods;
 - 6.3.3 maintain the goods in satisfactory condition and keep them insured against all risks for their full price from the date of delivery;
 - 6.3.4 notify us immediately if you become subject to a formal insolvency procedure; and
 - 6.3.5 give us such information relating to the goods as we may require from time to time.
- 6.4 subject to clause 6.5, if you resell or use the goods in the ordinary course of your business (but not otherwise) before you have paid us in full for the goods we have supplied (in cash or cleared funds):
 - 6.4.1 you do so as principal and not as our agent; and
 - 6.4.2 title to the goods shall pass from us to you immediately before the time at which resale by you occurs.
- 6.5 If before title to the goods passes to you, you become subject to a formal insolvency procedure, then, without limiting any other right or remedy we may have:
 - 6.5.1 your right to resell the goods or use them in the ordinary course of its business ceases immediately; and
 - 6.5.2 we may at any time:
 - a. require you to deliver up all goods in your possession which have not been resold, or irrevocably incorporated into another product; and
 - b. if you fail to do so promptly, enter any of your premises or of any third party where the goods are stored in order to recover them.

7. Warranties

- 7.1 We warrant that the goods:
 - 7.1.1 comply with their description on our acknowledgement of order form; and
 - 7.1.2 are free from material defect at the time of delivery (as long as you comply with clause 7.3).
- 7.2 We give no other warranty (and exclude any warranty, term or condition that would otherwise be implied) as to the quality of the goods or their fitness for any purpose.
- 7.3 If you believe that we have delivered goods which are defective in materials or workmanship you must:
 - 7.3.1 inform us (in writing), with full details, as soon as possible; and
 - 7.3.2 allow us to investigate (we may need access to your premises and product samples).
- 7.4 If the goods are found to be defective in material or workmanship (following investigations, and you have complied with those conditions (in clause 7.3) in full, we will (at our option) replace the goods or refund the price.
- 7.5 We are not liable for any other loss or damage (including indirect or consequential loss, financial loss, loss of profits or loss of use) arising from the contract or the supply of goods or their use, even if we are negligent.
- 7.6 In any event our total liability to you for all claims is limited to damages equal to the price of the goods.
- 7.7 Nothing in these terms restricts or limits our liability for death or personal injury resulting from negligence.

8. Specification

- 8.1 If you ask us to prepare the goods in accordance with your specification, you must ensure that the specifications or instructions you provide are accurate. You must ensure that goods prepared in accordance with those specifications or instructions will be fit for the purpose for which you intend to use them.
- 8.2 We shall not be liable for any of the following:
 - 8.2.1 any loss or damage (including indirect or consequential loss, financial loss, loss of profits or loss of use) arising from our supply of goods in accordance with your specification; and/or
 - 8.2.2 any failure to comply with the warranty in clause 7.1 if a defect arises as a result of us following your specification.

9. Return of Goods

- 9.1 We will accept the return of goods from you only:
 - 9.1.1 by prior arrangement (confirmed in writing);
 - 9.1.2 on payment of an agreed handling charge (unless the goods were defective when delivered); and
 - 9.1.3 where the goods are as fit for sale on their return as they were on delivery.
- 10. **Cancellation**
 - 10.1 If the order is cancelled for any reason by you or us in accordance with clauses 10.2 and 10.3, you shall pay us for all stock we hold, or stock we are committed to hold, in relation to the order (whether that stock is finished or unfinished).
 - 10.2 We may suspend or cancel the order, by written notice if:
 - 10.2.1 you fail to pay us any money when due (under the order or otherwise);
 - 10.2.2 you become insolvent;
 - 10.2.3 you fail to honour your obligations under these terms.
 - 10.3 You may not cancel the order unless we agree in writing (and clause 10.1 then applies).

11. Force majeure

- 11.1 If we are unable to perform our obligations to you (or able to perform them only at unreasonable cost) because of circumstances beyond our control ("**force majeure event**"), we may then cancel or suspend any of our obligations to you under this contract. We shall not be liable to you for any failure or delay in performing our obligations under the contract to the extent that such failure or delay is caused by a force majeure event.
- 11.2 A force majeure event includes (without limitation) an act of God, accident, explosion, fire, transport delays, strikes and other industrial disputes and difficulty in obtaining supplies.

12. General

- 12.1 Any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with any contract made under these terms shall be governed by and construed in accordance with the law of England and Wales. The courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with any contract made under these terms or its subject matter or formation.
- 12.2 If you are more than one person, each of you has joint and several liability obligations under these terms.
- 12.3 If any of these terms are unenforceable as drafted:
 - 12.3.1 it will not affect the enforceability of any other of these terms; and
 - 12.3.2 if it would be enforceable if amended, it will be treated as amended.
- 12.4 We may treat you as insolvent if:
 - 12.4.1 you are unable to pay your debts as they fall due; or

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- 12.4.2 you (or any of your property) becomes the subject of:
- a. any formal insolvency procedure (examples of which include receivership, liquidation, administration, voluntary arrangements (including a moratorium) or bankruptcy;
 - b. any application or proposal for any formal insolvency procedure.
- 12.5 Any notice by either of us which is to be served under these terms may be served by leaving it at or by delivering it to (by first class post or by fax) the other's registered office or principal place of business. All such notices must be signed.
- 12.6 No contract will create any right enforceable (by virtue of the Contracts (Rights of Third Parties) Act 1999) by any person not identified as the buyer or seller.