

## Terms and Conditions of Purchase of tesa

### 1. General

- (1) These Terms and Conditions of Purchase (hereinafter: "**Terms and Conditions of Purchase**") of tesa (hereinafter also "**we**", "**us**") apply to all business relationships with our Business Partners as suppliers and/or service providers (hereinafter: "**Business Partner**"). They only apply if the Business Partner is an entrepreneur (§ 14 BGB), a legal entity under public law or a special fund under public law.
- (2) These Terms and Conditions of Purchase apply in particular to
  - all contracts for the sale and/or delivery of movable goods ("**goods**"), irrespective of whether the Business Partner manufactures the goods himself or purchases them from suppliers (Sections 433, 650 (1) BGB);
  - all commissions for the performance of services or works.
- (3) Unless otherwise agreed, these Terms and Conditions of Purchase in the version valid at the time of our order and published on our website (<https://www.tesa.com/en/about-tesa/legal-information/purchasing-terms>) shall also apply as a framework agreement for similar future contracts without our having to refer to them again in each individual case.
- (4) These Terms and Conditions of Purchase shall apply exclusively. Deviating, conflicting or supplementary general terms and conditions of business of the Business Partner shall only become part of the contract if and to the extent that we have expressly agreed to their validity at least in text form. This requirement of consent shall apply in any case, for example even if we accept the Business Partner's deliveries or services without reservation in the knowledge of the Business Partner's general terms and conditions.
- (5) Individual agreements made with the Business Partner in individual cases (including ancillary agreements, supplements and amendments) shall in any case take precedence over these Terms and Conditions of Purchase. Subject to proof to the contrary, a contract in text form or our confirmation in text form shall be authoritative for the content of such agreements.
- (6) Legally relevant declarations and notifications with regard to the contract (e.g. setting of a deadline, reminder, withdrawal) must be made at least in text form (e.g. letter, e-mail, fax).

### § 2 Conclusion of contract

- (1) Our orders shall be deemed binding at the earliest upon submission in text form or confirmation in text form by the Business Partner. The Business Partner must point out obvious errors (e.g. spelling and calculation errors) and incompleteness of the order including the order documents to us for the purpose of correction or completion before acceptance.
- (2) Unless our order expressly provides otherwise, the Business Partner must check our orders in text form within a period of three working days and, if necessary, confirm them or - in particular by dispatching the goods or performing the commissioned service or work - execute them without reservation (acceptance). A delayed or modified acceptance by the Business Partner shall be deemed a new offer and requires acceptance by us.
- (3) If, from the Business Partner's point of view, there are indications that the legal admissibility of an assignment by us must first be checked, the Business Partner shall inform us of this without delay. We will then initiate a corresponding review ourselves and inform the Business Partner of the result.

### § 3 Delivery period, non-performance, consequences of delay in delivery, termination of service or work contracts

- (1) The delivery or performance time specified by us in the order is binding. The Business Partner shall comply with any deadlines specified in a purchase order or milestone schedule - subject to § 7 of these Terms and Conditions of Purchase.

- (2) The timeliness of deliveries or services depends on the provision of the goods at the agreed place of performance or on the provision of the service or work owed.
- (3) The Business Partner is obliged to inform us immediately in text form if he is likely to be unable to comply with agreed delivery or performance times - for whatever reason. The Business Partner must then inform us immediately of the expected duration of the delay.
- (4) If the Business Partner does not perform its delivery or service or does not perform it within the agreed time and if the conditions for default are met, our rights - in particular to rescission and damages - shall be determined in accordance with the statutory provisions. The provisions in para. 5 remain unaffected.
- (5) Insofar as the Business Partner is in default with the fulfilment of its contractual obligations, we may demand lump-sum compensation for our default damages in the amount of 1% of the net price or net fee per completed calendar week, but in total no more than 5% of the net price or net fee of the goods delivered or services rendered late. The parties reserve the right to prove that higher or lower damages have been incurred.
- (6) Termination of the Business Partner's commissioning of services or works shall be in accordance with the statutory provisions.

**§ 4 Content of the obligation to perform and deliver, acceptance, standard of care, accident prevention, labelling, packaging of deliveries**

- (1) When delivering goods, the Business Partner shall provide us - if applicable - with assembly instructions and instructions for use free of charge. Alternatively, the Business Partner is entitled to provide us - e.g. by means of QR codes or easily accessible internet links - with the possibility of retrieving the required documents ourselves. In the case of software products, the Business Partner shall provide us with user documentation in addition to the programme. In the case of individual software, the Business Partner shall also provide manufacturer documentation and the source code, unless otherwise agreed in the individual case.
- (2) If the Business Partner has produced the commissioned work in accordance with the contract, acceptance shall be carried out by us. The acceptance declaration shall be made in text form (acceptance protocol). The acceptance protocol shall be drawn up by the Business Partner and countersigned by us.
- (3) If the Business Partner is obliged to exercise due care under an order, he shall be responsible for the due care of a prudent businessman. This standard of care applies to the Business Partner, its legal representatives, vicarious agents, its people and servants (cf. §§ 428, 462 HGB).
- (4) Unless otherwise agreed, commissioned deliveries shall be made DDP (= Delivered Duty Paid) in accordance with ICC Incoterms 2020 to the place specified by us in the order. The respective place of destination is also the place of performance for the delivery and any subsequent performance. If the goods or the plant are located at a different place when a defect is discovered, this shall be the place of subsequent performance at our discretion, unless this would entail disproportionate costs for the Business Partner within the meaning of Section 439 (3) of the German Civil Code (BGB). § 439 para. 3 BGB (German Civil Code).

Our goods acceptance times are Monday - Thursday 7:00-14:00 and Friday 7:00-11:00. Tankers are welcome at our reception point from Monday -Friday 7:00-12:00.

- (5) If the parties have exceptionally agreed on a price ex works or ex warehouse of the Business Partner and if the Business Partner has to organise a delivery at our risk and expense, this shall be effected at the lowest cost in each case, unless we have prescribed a specific mode of transport. Any additional costs incurred due to non-compliance with shipping or packaging instructions shall be borne by the Business Partner. The Business Partner shall also bear any additional costs for accelerated transport that may be necessary in order to meet a delivery date.

- (6) Deliveries addressed to us must be accompanied by a delivery note stating the date (issue and dispatch), the contents of the delivery (product number and quantity) and our order identification (date and order number). If the delivery note is missing, incomplete or incorrect, we shall not be responsible for any delays in processing and payment resulting therefrom.
- (7) The Business Partner is not entitled to have the delivery or service owed by it provided by third parties (e.g. subcontractors) without our prior consent in text form. The Business Partner shall bear the procurement risk for its services unless otherwise agreed in individual cases (e.g. limitation to stock).
- (8) When providing services, the Business Partner is solely responsible for compliance with the accident prevention regulations. Any protective devices and measures required thereafter shall be used or applied at no additional cost to us.
- (9) The Business Partner shall ensure that all goods delivered are labelled in a manner that complies with the regulatory and/or legal requirements within the EU or another target market (after prior notification by us). The Business Partner must also inform us immediately of any changes to the labelling requirements relevant to us of which it becomes aware.
- (10) If the transport requires packaging, the goods shall be packed. The packaging must be safe for transport and comply with the transport regulations applicable to the selected mode of transport and any packaging regulations specified in our order. If the consignment is handed over to us in damaged packaging, we are entitled to reject the consignment without checking its contents or to return it at the expense and risk of the Business Partner.
- (11) Packaging material used by the Business Partner for shipping (returnable containers) must be recognisable as belonging to the owner by means of an imprint. The Business Partner must take it back free of charge within the scope of his legal obligations (Section 15 (1) of the Packaging Act). He must also independently check whether he is obliged to register and participate in the system according to the Packaging Act and, if necessary, carry out all necessary measures for compliance with the legal requirements.

## **§ 5 Remuneration and terms of payment**

- (1) The contractually agreed remuneration is binding. The agreed prices are fixed prices and shall not be modified due to increases e.g. in the price of materials, or wage increases, or due to changes in other prices. Unilateral adjustments of the prices by the supplier are inadmissible. The agreed remuneration shall include statutory value added tax, unless this is shown separately.
- (2) Unless otherwise agreed in individual cases, the remuneration shall include all services and ancillary services of the Business Partner (e.g. assembly, installation) as well as all additional expenses of the Business Partner (e.g. for proper packaging, transport, transport and liability insurance), cf. also § 10 para. 3 of these Terms and Conditions of Purchase. Any travel expenses incurred by the Business Partner shall only be reimbursed by us in the event of prior consent in text form.
- (3) If an additional service, which is not provided for in the contract, is agreed between us and the Business Partner, the Business Partner shall be entitled to additional remuneration. This additional remuneration must be announced and approved by us before the start of the additional service.
- (4) The agreed remuneration shall be due for payment without deduction within 45 calendar days of complete delivery and/or performance (including any agreed acceptance). If a different payment term is agreed in the contract or offer, the individually agreed payment term shall have priority. Invoices shall comply with the requirements as set out in Annex I.
- (5) We are entitled to reject incorrect or incomplete invoices of the Business Partner and to reduce the invoice by an appropriate amount which takes into account the workload incurred for checking the invoice.

- (6) We do not owe interest on arrears. The statutory provisions shall apply to default in payment.
- (7) The assignment of claims of the Business Partner against us requires our written consent, provided that these are not monetary claims.

#### **§ 6 Assignment, set-off, retention**

- (1) The assignment of claims of the Business Partner against us requires our written consent, provided that these are not monetary claims.
- (2) We are entitled to withhold payments due to the Business Partner to the extent that we are still entitled to claims against the Business Partner arising from incomplete or defective performance.
- (3) We are entitled to set off claims of the Business Partner against our due claims against the Business Partner.
- (4) Any securities granted to us by the Business Partner shall serve as securities for our claims against the Business Partner even without a separate agreement.
- (5) The Business Partner shall only be entitled to a right of set-off or retention against our claims on the basis of counterclaims that have been legally established, are undisputed or are based on the same contractual relationship.

#### **§ 7 Force majeure**

- (1) Events of force majeure shall release the party directly or indirectly affected from its contractual obligations for the duration of the disruption and to the extent of its effect. Force majeure shall be deemed to include, for example, natural disasters, war, riots, sabotage, curfews imposed by public authorities, governmental import and export restrictions, prolonged interruption or restriction of energy supply, organised labour disputes (but not wildcat strikes) and other external, extraordinary and unavoidable events. The affected party is obliged to inform the other party immediately of the expected duration of the disruption.
- (2) The contracting parties are entitled to withdraw from the contract or to terminate the contract (in whole or in part) if there is a justified interest in abandoning the performance due to the delays caused by force majeure. Our obligation to pay for any partial performance already accepted by us shall remain unaffected by this; otherwise the Business Partner's claim to payment shall lapse.

#### **§ 8 Confidentiality, further processing, exclusion of the Business Partner's retention of title, no unauthorised reference to tesa**

- (1) We reserve the property rights and copyrights to illustrations, plans, drawings, drafts, calculations, implementation instructions, product descriptions and other documents produced by us (hereinafter collectively referred to as: **Documents**). These Documents are to be used exclusively for the contractual performance and are to be returned to us immediately and unsolicited after completion of the order if we do not expressly leave them with the Business Partner; in this respect, the Business Partner is not authorised to assert a right of retention against us.
- (2) The Documents as well as the contents of our orders are to be kept secret from third parties and are only to be used for the execution of the order. The obligation to maintain secrecy shall only expire if and to the extent that the knowledge contained in the Documents has become generally known. Special confidentiality agreements and statutory regulations on the protection of secrets shall remain unaffected. Copying or reproducing the Documents is only permitted insofar as it is absolutely necessary for the execution of the order placed by us.
- (3) The above provision in para. 2 shall apply accordingly to raw materials and materials (e.g. software, finished and semi-finished products) as well as to tools, templates, samples and other items which we provide to the Business Partner for the processing of our order. Such items shall - as long as they are not processed - be stored separately at the Business

Partner's expense and shall be secured by the Business Partner to a reasonable extent against unauthorised inspection, theft and use and insured against destruction, theft and loss.

- (4) Any processing, mixing or combination (further processing) by the Business Partner of items provided by us shall be carried out for us. The same shall apply in the event of further processing of goods supplied by us. We shall therefore be deemed to be the manufacturer and shall acquire ownership of the new item at the latest upon further processing in accordance with the statutory provisions. If the material provided by us only makes up a part of the new item, we shall acquire co-ownership of the new item in proportion to the share corresponding to the value of the material.
- (5) If the Business Partner produces technical documents, tools, drawings, works standard sheets, etc. for the processing of our order, we shall receive ownership of such items. The Business Partner shall store these items free of charge until he returns them to us at our request. The items may not be used for purposes other than the fulfilment of our order, reproduced or handed over to third parties without our consent (in text form). If we bear only a proportion of the manufacturing costs, we shall acquire co-ownership of the items, which the Business Partner shall hold in safe custody for us free of charge. However, we may at any time acquire the Business Partner's rights in relation to the items against reasonable compensation for the expenses not yet amortised for the manufacture of the items and demand the surrender of the items from the Business Partner.
- (6) The transfer of ownership of the goods to us shall be unconditional and without regard to the payment of the price. Retention of title by the Business Partner is excluded unless it is covered by our express written consent. If, in an individual case, we accept an offer by the Business Partner for transfer of ownership conditional on payment of the purchase price, the Business Partner's retention of title shall expire at the latest upon payment of the purchase price for the goods delivered. We shall remain authorised to resell the goods in the ordinary course of business even before payment of the purchase price with advance assignment of the claim arising therefrom (alternatively validity of the simple and for cases of resale extended reservation of title). In any case, all other forms of retention of title are excluded, in particular the extended retention of title, the passed-on retention of title and the retention of title extended to further processing.
- (7) Without our prior consent in text form, the Business Partner may not refer to the business relationship with us in advertising material, brochures, etc. and may not exhibit goods delivered on our behalf. The Business Partner shall oblige any suppliers in accordance with this § 8.

## **§ 9 Warranty for defects and liability, limitation period**

- (1) The statutory warranty for defects and liability provisions shall apply unless otherwise stipulated below.
- (2) The Business Partner warrants that its deliveries and services comply with the relevant regulatory and/or statutory requirements and the state of the art at the time of the transfer of risk to us or at the time of the agreed acceptance and that they are functional for the intended use. Unless a longer period is stipulated by law, the warranty period for purchase contracts and contracts for work and services shall be 36 months and shall commence upon delivery or acceptance. The provisions in §§ 445a, 445b BGB remain unaffected. The warranty period shall be suspended for the duration of any rectification of defects.
- (3) In any case, those product descriptions which - in particular by designation or reference in our order - are the subject matter of the respective contract or have been included in the contract in the same way as these Terms and Conditions of Purchase shall be deemed to be an agreement on the quality. It makes no difference whether the product description originates from us, from the Business Partner or from a third party (for example from the manufacturer). Furthermore, the Business Partner guarantees that the delivered goods have not been changed in their design and composition compared to previous similar deliveries free of defects, unless such changes have been agreed with us prior to the conclusion of the contract.



- (4) The statutory provisions (§§ 377, 381 HGB) shall apply to the commercial obligation to inspect and give notice of defects with the following provision: Our obligation to inspect shall be limited to defects which become apparent during our incoming goods inspection under external examination including the delivery documents (e.g. transport damage, wrong and short delivery) or which are recognisable during our quality control in the random sampling procedure. Insofar as an acceptance has been agreed for work performances, there is no obligation to inspect. In all other respects, it shall depend on the extent to which an inspection is feasible in the ordinary course of business, taking into account the circumstances of the individual case. Our obligation to give notice of defects discovered later remains unaffected. Notwithstanding our obligation to examine, our complaint (notice of defect) shall be deemed to have been made without delay and in good time if it is sent within two weeks of discovery or, in the case of obvious defects, of delivery.
- (5) Upon receipt of our notice of defect (in text form) by the Business Partner, the limitation period for warranty claims is suspended until the Business Partner rejects our claims, declares the defect eliminated or otherwise refuses to continue negotiations on our claims. In the event of a replacement delivery, the warranty period for replaced parts as a whole shall begin anew. In the event of rectification (e.g. by repair), the warranty period shall begin anew insofar as the same defect or the consequences of defective rectification are concerned. The limitation period shall not recommence if we had to assume that the Business Partner did not feel obliged to take the action but only made the replacement delivery or rectified the defect as a gesture of goodwill or for similar reasons. In order to avoid misunderstandings and for evidentiary purposes, this generally requires an express declaration in text form by the Business Partner stating that he is acting without recognition of a legal obligation.
- (6) The Business Partner's supplementary performance shall also include the removal of the defective goods and their reinstallation, provided that the goods have been installed in another item or attached to another item in accordance with their type and intended use. Alternatively, we may, at our discretion, carry out (have carried out) the disassembly and reassembly ourselves and demand from the Business Partner first an appropriate advance payment and then reimbursement of all expenses incurred as a result.
- (7) If we have commissioned the Business Partner with the performance of work, we shall be entitled, in accordance with the statutory provisions, to self-execution due to a defect and to a reasonable advance payment for the necessary expenses.

#### **§ 10 Third Party Rights, Indemnification Obligation of the Business Partner, Exploitation of Developments of the Business Partner**

- (1) The Business Partner guarantees that its deliveries and services, in the event of their use, do not violate any existing (intellectual) property rights or other rights of third parties in
  - Australia, Brazil, Canada, China, Hong Kong, India, Japan, Malaysia, Mexico, New Zealand, Norway, Russia, Singapore, South Korea, Switzerland, Taiwan, Turkey, the United Kingdom, Vietnam, the United States or in an EU Member State; or
  - other countries in which the Business Partner manufactures goods or has goods manufactured.
- (2) The Business Partner is obliged to indemnify us against all claims made by third parties against us due to the infringement of third party rights referred to in para. 1 and to reimburse us for all necessary expenses in connection with this claim. This shall not apply insofar as the Business Partner proves that it is neither responsible for the infringement nor should have been aware of it at the time of delivery or performance if it had exercised due commercial care. Our further legal claims due to defects of title of the goods delivered to us or services rendered for us remain unaffected.
- (3) Upon payment of the contractually agreed remuneration (cf. § 5 of these Terms and Conditions of Purchase), the Business Partner shall transfer to us the intangible rights arising within the scope of our commissioning, in particular to the work results, in particular all trademark and other labelling rights, rights of use under copyright law, design rights, related property rights within the meaning of copyright law (including all development

stages) and other intangible property rights. The transfer is included in the contractually agreed remuneration. Copyright usage rights are exclusive, spatially and temporally unlimited, transferable and sub-licensable. Documents made available by us must be handled with care by the Business Partner and returned to tesa without being asked after termination of the contract. Copies made are to be destroyed.

- (4) The Business Partner shall immediately notify us of any inventions made by the Business Partner's employees in the course of fulfilling the order and offer to take them over. We will inform the Business Partner in writing within a period of four weeks after receipt of such an offer whether we will take over the rights to the invention.
- (5) If we notify the Business Partner in text form that we are not interested in taking over the rights to the invention, the Business Partner shall be entitled to make limited or unlimited use of the invention and to apply for the industrial property right at his own expense. The Business Partner shall then be entitled to use the property right without restriction. In the event of registration of the property right, however, the Business Partner shall waive any assertion of rights arising from the property right vis-à-vis us, companies affiliated with us (cf. § 6 para. 5 of these Terms and Conditions of Purchase) and our customers (insofar as known to the Business Partner from the order or notified by us).

#### **§ 11 Cartel damages**

- (1) The Business Partner is obliged not to behave in any way contrary to antitrust law to our detriment.
- (2) If it is established by the cartel authorities that the Business Partner was involved in an inadmissible restriction of competition during the term of the contract and that the services provided to us were affected by this, the Business Partner shall be obliged to pay us liquidated damages amounting to 10% of the order value (plus interest at the statutory rate) for the period affected by the cartel. The Business Partner has the right to prove that we have suffered a lesser loss.
- (3) The Business Partner shall provide us with the information and documents required to examine the existence and scope of such claims immediately after the infringement has become known. The obligation to pay damages shall also exist if the business relationship has already been terminated at the time of the discovery of the cartel violation.

#### **§ 12 Independence of the Business Partner**

- (1) We and the Business Partner agree that the Business Partner is an independent contractor and that nothing in these Terms and Conditions of Purchase gives rise to a position of the Business Partner or its employees or appointed third parties as employees or agents of us.
- (2) The Business Partner will not act externally as our employee or representative. In particular, he will not give any assurances on our behalf, conclude any contracts or agreements on our behalf, sign any documents on our behalf, or encumber our creditworthiness.

#### **§ 13 Compliance, tesa Code of Conduct for suppliers, tesa's environmental and energy guidelines**

- (1) The Business Partner is obliged to comply with the relevant legal provisions. This applies in particular to anti-corruption and money laundering laws as well as antitrust, labour and environmental protection regulations. With regard to environmental protection, we also refer to our environmental and energy guidelines: <https://www.tesa.com/en-gb/about-tesa/sustainability>
- (2) The Business Partner shall also ensure that its goods and services comply with the relevant requirements for placing on the market in the European Union and the European Economic Area.
- (3) To the extent applicable, the Business Partner shall in particular comply with the requirements of the EU Regulation 2019/1021 on persistent organic pollutants ("POP

Regulation"), the European Packaging Directive (Directive 94/62/EC, renewed by the amending Directive (EU) 2018/851) or its respective applicable implementing laws, the EU Chemicals Regulation REACH ("REACH Regulation") as well as the EU Chemicals Regulation on Classification, Labelling and Packaging of Chemicals of substances and mixtures ("CLP Regulation"). In particular, the Business Partner undertakes not to use any substances that are considered reprotoxic, teratogenic, mutagenic or carcinogenic in accordance with the aforementioned regulations and their adaptations to technical progress. In addition, the Business Partner is obliged, as far as applicable, to comply with the requirements of the transposition laws of the Directive (EU) on the restriction of the use of certain hazardous substances in electrical and electronic equipment ("RoHS").

- (4) The Business Partner shall inform us immediately of any changes in the statutory requirements for the goods and work performances of the Business Partner. The same applies if changes to the legal requirements have an impact on the manufacture or ingredients of the goods or work performances.
- (5) The Business Partner also undertakes to respect and support the observance of internationally recognised human rights and to prevent any form of forced or child labour. The legal regulations on occupational safety and health protection are recognised and complied with as an essential part of all operational processes. The Business Partner respects and guarantees the applicable provisions of labour law. It is also obliged to comply with the provisions of the tesa Code of Conduct for Suppliers and site-specific regulations. This can be found at: <https://www.tesa.com/en-gb/about-tesa/sustainability/our-guidelines-and-standards>
- (6) The Business Partner shall embed appropriate and effective measures in its business to ensure compliance with the obligations set out in this § 13 also by its suppliers.
- (7) If the Business Partner violates the provisions of the tesa Code of Conduct for Suppliers, the violations must be reported to us immediately. We reserve the right to terminate the contractual relationship in the event of compliance violations by the Business Partner in accordance with the statutory provisions or to take other appropriate measures in order to encourage the Business Partner to comply with the provisions of the tesa Code of Conduct for Suppliers.

#### **§ 14 Data protection**

The data required for the processing of the contract will be stored in our EDP system. We refer to our data protection declaration: <https://www.tesa.com/en-gb/about-tesa/legal-information/privacy-policy>.

#### **§ 15 Applicable law and place of jurisdiction**

- (1) The law of the Federal Republic of Germany shall apply to the exclusion of the United Nations Convention on Contracts for the International Sale of Goods (CISG; UN Sales Convention).
- (2) The exclusive place of jurisdiction for all disputes arising from or in connection with this contractual relationship is Hamburg. However, we are entitled to sue the Business Partner at any other legal place of jurisdiction.

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