

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 any written request for goods and associated services ("**Order**") made by us to the supplier named in the Order (hereinafter: "**Business Partner**").
- (2) These Terms and Conditions of Purchase apply in particular to all Orders for the sale and/or delivery of movable goods ("**Goods**") and associated services ("**Services**"), irrespective of whether the Business Partner manufactures the Goods or purchases them from third party suppliers.
- (3) 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 apply as a framework agreement for each Order without our having to refer to them again in each Order.
- (4) These Terms and Conditions of Purchase shall apply exclusively and in conjunction with any Orders, record the entire agreement between us and the Business Partner as to its subject matter and supersede all prior contracts, obligations, representations, conduct and understandings. Deviating, conflicting or supplementary general terms and conditions of business of the Business Partner shall not bind us, even if signed. By signing any Order, the Business Partner is bound by these Terms and Conditions of Purchase.
- (5) Any notice, demand or consent with regard to these Terms and Conditions of Purchase must be made in writing, signed by a person duly authorised by the sender, and will be taken to be duly given or made:
 - a. in the case of delivery in person, when delivered;
 - b. in the case of delivery by post, five (5) "**Business Days**" (being a day other than a Saturday, Sunday or a public holiday in New South Wales, Australia) after the date of posting (if posted to an address in the same country) or fifteen (15) Business Days after the date of posting (if posted to an address in another country); and
 - c. in the case of email, twenty-four (24) hours after the email is sent unless within that period the sender receives an automated message that the email has not been delivered, or an "out of office" response from the recipient, in which case the email will not have been delivered.

§ 2 Conclusion of contract

- (1) We may place an Order with the Business Partner. The Business Partner must check the Order and point out any errors (e.g. spelling and calculation errors) or incomplete information in the Order including the Order documents to us for the purpose of correction or completion within three (3) Business Days of receipt of the Order. The Business Partner may reject an Order within three (3) Business Days of receipt of the Order.
- (2) Orders shall be deemed accepted if the Business Partner has not pointed out any errors or incomplete information to us, or rejected the Order, within three (3) Business Days of receipt. A delayed or modified acceptance of the Order by the Business Partner shall be deemed a new offer and requires written acceptance by us.

§ 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 for the delivery of the Goods or provision of the Services specified in an Order or milestone schedule in an Order - subject to § 8 of these Terms and Conditions of Purchase.

- (2) The Business Partner must deliver the Goods and provide the Services at the agreed place of delivery or performance in an Order.
- (3) The Business Partner is obliged to inform us immediately in writing if the Business Partner becomes aware of any likely delay to an agreed delivery date and then inform us immediately of the expected duration of the delay. In the event of the Business Partner's delay or failure to provide the Goods and/or Services by the agreed delivery date, we may:
 - a. extend the date for delivery of the Goods and/or Services;
 - b. cancel the Order and claim compensation from the Business Partner for non-performance of the Order; or
 - c. insist on performance and claim damages caused by the Business Partner's delay.
- (4) If the Business Partner is delayed in fulfilling its obligations on more than two (2) occasions, we may terminate the relevant Order(s) with immediate effect.

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

- (1) When delivering Goods, the Business Partner shall provide us – at our election – with:
 - a. assembly instructions and instructions for use at no additional cost; or
 - b. by means of QR codes or easily accessible internet links - the ability to retrieve the required documents ourselves.

In the case of software constituting standard products, the Business Partner shall provide us with user documentation in addition to the programme. In the case of bespoke software, the Business Partner shall also provide manufacturer documentation and the source code, unless otherwise agreed in the relevant Order.

- (2) Where an Order requires the Business Partner to deliver Goods branded with any trade mark of tesa ("**White Label Goods**"):
 - a. the Business Partner must submit its proposed product specifications for the White Label Goods requested by us ("**Proposed Product Specifications**") within seven (7) Business Days of our written request together with its proposed pricing for those White Label Goods;
 - b. we will consider and either accept or reject the Proposed Product Specifications;
 - c. if we accept your Proposed Product Specifications and your proposed pricing for those White Label Goods ("**Proposed Pricing**"), we will provide packaging specifications for those White Label Goods ("**Packaging Specifications**") and submit an Order for a quantity of those Goods to you;
 - d. §2 will apply to each Order we submit for White Label Goods; and
 - e. upon acceptance of the Proposed Product Specifications by us they become the "**Final Product Specifications**" and you must manufacture any White Label Goods in accordance with their Final Specifications (as defined in § 10(1)) within the deadline specified in the Order;
- (3) Unless otherwise agreed, deliveries shall be made DAP (Delivered at Place) in accordance with ICC Incoterms 2020 to the place specified by us in the Order. The nominated place of destination is also the place of performance for the delivery and any subsequent performance. Our goods acceptance times are Monday - Friday 8:00 - 15:00.
- (4) If the parties have 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, the Business Partner shall effect delivery 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 an agreed delivery date.

- (5) 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.
- (6) The Business Partner is not entitled to subcontract its obligations under these Terms and Conditions of Purchase without our prior written consent. The Business Partner shall ensure that its subcontractors comply with these Terms and Conditions of Purchase in delivering the Goods and providing the Services. The Business Partner remains liable for each act or omission of its subcontractors as if it were an act or omission of the Business Partner.
- (7) When delivering the Goods and providing the Services, the Business Partner is primarily responsible for the health and safety of the personnel who the Business Partner uses to deliver the Goods and provide the Services (“**Business Partner Personnel**”). The Business Partner must promote safe work practices, notify us immediately upon becoming aware of any health, safety and environmental concerns, and ensure that all Business Partner Personnel:
 - a. receive appropriate instruction, including induction and training in relation to all health, safety and environment matters; and
 - b. comply with all applicable health, safety and environment laws and policies and directions of us.

Any protective devices and measures required thereafter shall be used or applied by the Business Partner at no additional cost to us.

- (8) The Business Partner shall ensure that all Goods (other than White Label Goods) delivered are labelled in a manner that complies with the regulatory and/or legal requirements within Australia 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 any Goods of which it becomes aware. In relation to White Label Goods, we are responsible for complying with regulatory and/or legal requirements in relation to the labelling of those Goods within Australia or another agreed target market.
- (9) 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.
- (10) Packaging material used by the Business Partner for shipping (returnable containers) must be recognisable as belonging to the owner by means of a label. The Business Partner must arrange for any returnable containers to be taken back at no additional cost when specified in the relevant Order and according to all applicable laws and regulatory requirements in relation to packaging.

§ 5 Remuneration and terms of payment

- (1) The agreed fees set out in the Order are fixed prices and shall not be modified by the Business Partner (without our prior written consent) due to cost increases e.g. in the price of materials, or wage increases, or due to changes in other prices. The agreed fees include all taxes, unless otherwise specified in the Order.
- (2) Unless otherwise agreed in individual Orders, the fees shall include all Services (e.g. assembly, installation) as well as all additional expenses of the Business Partner (e.g. for proper packaging, transport, transport and liability insurance). Any travel expenses incurred by the Business Partner shall only be reimbursed by us in the event of our prior written consent.

- (3) The agreed fees shall be due for payment without deduction within 45 calendar days of complete delivery and acceptance by us of the Goods and/or performance of the Services and receipt of a written tax invoice containing all mandatory information pursuant to applicable laws, our Order number and applicable lists of contents and weights. If a different payment term is agreed in the Order, the individually agreed payment term shall have priority. If the Business Partner decides to send a paper invoice, the invoice shall be sent in duplicate.
- (4) We are entitled to reject incorrect or incomplete invoices of the Business Partner or dispute an invoice of the Business Partner. If we reject or dispute an invoice, we will notify the Business Partner of the rejection or dispute and the reasons for the rejection or dispute, and:
 - a. the Business Partner must cancel the original rejected or disputed invoice;
 - b. the Business Partner must issue a new invoice to us with the correct and complete information (where the original invoice was rejected) or with the undisputed portion of the original invoice (where the original invoice was disputed);
 - c. we must pay the whole amount of the new invoice within thirty (30) days from issue of the new invoice; and
 - d. if, upon settlement of the dispute, the parties agree or determine that any amount remains payable to the Business Partner, the Business Partner will issue an invoice to us for that remaining amount and we will pay that invoice within thirty (30) days from the date of settlement of the dispute.
- (5) We will not be obliged to pay interest on any arrears.

§ 6 Taxes

- (1) Capitalised terms (not otherwise defined in these Terms and Conditions of Purchase) in § 6(3) and § 6(4) have the meaning given in *A New Tax System (Goods and Services Tax) Act 1999* (Cth).
- (2) Subject to § 6(3), the Business Partner will be solely liable for payment of all applicable taxes, imposts, levies, withholdings or duties of any nature (including excise and customs duties) (“**Taxes**”), which arise in connection with, or apply to, the Goods, Services or any payments made under these Terms and Conditions of Purchase.
- (3) Unless the contrary intention appears, the fees do not include GST. The supplier of a Taxable Supply will add the prevailing rate of GST on to all Taxable Supplies made in connection with these Terms and Conditions of Purchase, and the Recipient agrees to pay that GST following receipt of a tax invoice from the supplier of a Taxable Supply. The GST applicable to any Taxable Supplies made in connection with these Terms and Conditions of Purchase is payable at the same time as the Consideration for those Goods and Services. Where any amount payable is expressed in a currency other than Australian dollars and GST is payable, the tax invoice must comply with the requirements in GST ruling 2001/2 (Foreign Exchange Conversions) and any replacement or substitute ruling or determination.
- (4) Where a party reimburses the other party for an expense or other amount incurred in connection with any wholly or partly Creditable Acquisition or any wholly or partly Creditable Importation made by that other party (or the representative member of a GST Group of which that other party is a member), the amount reimbursed will be net of any Input Tax Credit claimable in respect of that acquisition or importation.
- (5) If we are required, in our opinion, to withhold any amount in respect of Tax from a payment to be made to the Business Partner under these Terms and Conditions of Purchase, we are entitled to do so, and such withholding and payment to the relevant taxing authority will be a good discharge of our obligation to pay the relevant amount to the Business Partner.

§ 7 Assignment, set-off, retention

- (1) The Business Partner must not assign, novate or otherwise deal with its rights under these Terms and Conditions of Purchase without our prior written consent.
- (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.

§ 8 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 lockouts), pandemics and other external, extraordinary and unavoidable events. The affected party is obliged to inform the other party in writing immediately of the force majeure event and expected duration of the disruption and use its reasonable endeavours to prevent, avoid or mitigate the consequences of the force majeure event.
- (2) The contracting parties are entitled to terminate the affected Order(s) if a force majeure event continues for more than sixty (60) days. Our obligation to pay for any partial performance of the Services, or any delivery of Goods already accepted by us, shall remain unaffected by this.

§ 9 Confidentiality, further processing, title and risk, no unauthorised reference to tesa

- (1) Each party ("**Receiving Party**") must keep secure and confidential, and not disclose, the provisions of these Terms and Conditions of Purchase, any Orders and any information provided to it by the other party ("**Disclosing Party**") including, where the Disclosing Party is us, our illustrations, plans, drawings, drafts, calculations, implementation instructions, product descriptions and other documents produced by us (hereinafter collectively referred to as "**Confidential Information**"), unless permitted by this § 9 or the information is:
 - a. generally available to the public other than through breach of these Terms and Conditions of Purchase or other breach of confidence;
 - b. lawfully obtained from a duly authorised party; or
 - c. independently developed without reference to any Confidential Information.
- (2) The Receiving Party may disclose Confidential Information of the Disclosing Party:
 - a. to any company affiliated with the Receiving Party, subcontractor, personnel, professional advisor, auditor or insurer who needs to know the Confidential Information for the purposes of these Terms and Conditions of Purchase and who is subject to binding obligations of confidence at least as stringent as those set out in this § 9;
 - b. to the extent required by a law; or
 - c. with the Disclosing Party's prior written consent.
- (3) The Receiving Party must, upon termination or expiry of these Terms and Conditions of Purchase, either return to the Disclosing Party or destroy all Confidential Information of the Disclosing Party (other than the terms of these Terms and Conditions of Purchase) that is

in its possession. This § 9 does not restrict our rights in respect of Goods or Intellectual Property Rights (as defined in § 10(1)) under these Terms and Conditions of Purchase.

- (4) The obligation to maintain the confidentiality of the Confidential Information survives the termination or expiry of these Terms and Conditions of Purchase.
- (5) The Business Partner shall:
 - a. store any 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 any Order (“**tesa Materials**”), separately from other customers’ materials at the Business Partner’s expense;
 - b. take reasonable measures to secure tesa Materials against unauthorised inspection, theft and use; and
 - c. insure tesa Materials in the possession of the Business Partner against destruction, theft and loss.
- (6) Any processing, mixing or combination (further processing) by the Business Partner of tesa Materials shall be carried out by the Business Partner for us. In relation to White Label Goods, we shall therefore be deemed to be the manufacturer and shall acquire ownership of the White Label Goods in accordance with § 9(7).
- (7) If the Business Partner produces tools, drawings, or works related to the packaging or labelling, or both, of any White Label Goods, or standard sheets, or instructions for the processing of any Order for White Label Goods, we shall receive ownership of such items. The Business Partner shall store these items at no additional cost until we request that the Business Partner returns them to us. The items may not be:
 - a. used by the Business Partner for any purposes other than the fulfilment of our Order;
 - b. reproduced; or
 - c. handed over to third parties,without our prior written consent.
- (8) Title to a Good will pass from the Business Partner to us on the payment by us of the fees for that Good. Risk in a Good passes from the Business Partner to us upon delivery of that Good to the agreed place of delivery or performance set out in the Order.
- (9) Without the prior written consent of the other party, a party may not refer to this business relationship in advertising material, brochures or other publicity. The Business Partner may not exhibit Goods delivered on our behalf without our prior written consent. The Business Partner shall ensure that any suppliers, subcontractors and Business Partner Personnel comply with this § 9.

§ 10 Warranty for defects and liability

- (1) The Business Partner warrants that:
 - a. it will provide all Services with due care and skill, in a professional, efficient and safe manner and in accordance with good industry practice, laws and these Terms and Conditions of Purchase;
 - b. Goods will be fit for the purpose specified by us in the Order, be free from any failure to comply with these Terms and Conditions of Purchase (“**Defects**”) and comply with applicable laws and the “**Final Specifications**” (which in relation to White Label Goods, means the Packaging Specifications and Final Product Specifications and in relation to other Goods, means any agreed specifications for those Goods); and
 - c. the use of the Goods and Services, and the exercise of any rights granted or assigned to us under these Terms and Conditions of Purchase will not infringe

any applicable law or rights of any person (including any intellectual property rights, including existing and future copyright, rights in designs, patents, semiconductors and circuit layouts and rights in trade marks, trade names and service marks, in each case, whether registered or unregistered and existing in Australia or elsewhere in the world and whether created before or after the date of these Terms and Conditions of Purchase (“**Intellectual Property Rights**”)).

- (2) The Goods will be of acceptable quality within the meaning of the Australian Consumer Law (contained in Schedule 2 of the *Competition and Consumer Act 2010 (Commonwealth)*) and will be as safe as persons generally are entitled to expect. In addition, the Goods and Services will meet all other requirements of the consumer guarantees set out in the Australian Consumer Law.
- (3) We are entitled to reject any Goods which do not comply with this § 10. This § 10 does not limit our right to make claims for Defects at any time.
- (4) 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 (or 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.
- (5) The approval by us of any Final Product Specifications does not remove or reduce the liability of the Business Partner under this §10 in relation to any Goods produced in accordance with those Final Product Specifications.

§ 11 Third Party Rights, Indemnification Obligation of the Business Partner, Intellectual Property Rights

- (1) The Business Partner is obliged to indemnify us against all loss and claims made by any third party against us due to the infringement of third party rights referred to in § 10(1)c and to reimburse us for all necessary expenses in connection with this claim, except to the extent that the loss or claim is caused or contributed to by tesa. This shall not apply to claims or losses that we would not have suffered or incurred had we complied with the common law duty to mitigate loss. If a claim is made by a third party against us, we may direct the Business Partner to control the defence of the proceedings relating to the claim, in which case, the Business Partner shall:
 - a. consult with and keep us informed about any negotiations or litigation and must comply with our reasonable direction;
 - b. conduct the defence of the claim diligently, using competent counsel, having regard to our interests and reputation; and
 - c. not settle or compromise, or attempt to settle or compromise, the claim if that settlement or compromise would require us to give any admission of liability, undertaking or other commitment (other than ceasing to use the relevant Intellectual Property Rights).
- (2) The Business Partner is obliged to indemnify us against all loss and claims made by any third party against us due to any breach of any of the Business Partner's obligations under § 10(1)b., or § 10(2), or both, except to the extent that the loss or claim is caused or contributed to by tesa.
- (3) If any third party claims that the delivery of Goods or provision of the Services infringes its Intellectual Property Rights and we require, the Business Partner must, in addition to § 11(1):
 - a. procure for us the right to continue to use those Goods or Services in accordance with these Terms and Conditions of Purchase; or
 - b. replace or modify those Goods or Services such that they cease to be infringing and continue to comply with the Final Specifications, functionality and other requirements of these Terms and Conditions of Purchase.

- (4) If the Business Partner fails to defend any claim in accordance with § 11(1) or § 11(2), we may defend the claim at the Business Partner's expense in such manner as we may deem appropriate.
- (5) Nothing transfers or grants to a party any right, title or interest in or to any Intellectual Property Rights owned by the other party, except as set out in this § 11(5) and § 11(6). The Business Partner grants us a worldwide, royalty-free, perpetual, irrevocable, non-exclusive licence to use, adapt, modify, develop and enjoy the Intellectual Property Rights of Business Partner in the Goods to the extent necessary to enable us to receive, use and enjoy the full benefit of the Goods and Services provided under these Terms and Conditions of Service. We may sub-license our rights under this § 11(5) to any company affiliated with us that requires the benefit of the Goods or Services without the Business Partner's consent; any other contractor of us that requires access to or use of the Goods and Services to provide goods or services to us without the Business Partner's consent; and any other person with the Business Partner's consent (not to be unreasonably withheld).
- (6) We grant the Business Partner a royalty-free, non-transferable, revocable, non-exclusive licence to use our Intellectual Property Rights in the Packaging Specifications solely to the extent necessary for the Business Partner to perform its obligations under these Terms and Conditions of Purchase.

§ 12 Competition law

- (1) Each party must comply with all applicable competition laws including the *Competition and Consumer Act 2010* (Cth) ("**Competition Law**").
- (2) If it is established by a court that the Business Partner was involved in a contravention of Division 1 of Part IV of the *Competition and Consumer Act 2010* (Cth) (a "**Cartel**") during the term of these Terms and Conditions of Purchase, 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 total value of all Orders (plus interest at the rate stipulated in Regulation 36.7 of the Uniform Civil Procedure Rules 2005) 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 the Cartel immediately after the Cartel is established. The obligation to pay damages will survive even if these Terms and Conditions of Purchase have already been terminated at the time the Cartel is established.

§ 13 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, the Business Partner 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.

§ 14 Compliance, tesa Code of Conduct for suppliers, tesa's environmental and energy guidelines

- (1) The Business Partner is obliged to comply with the relevant laws, including, but not limited to, anti-corruption, anti-money laundering, labour and environmental protection laws and regulations. The Business Partner is also obliged to comply with our environmental and energy guidelines at: <https://www.tesa.com/en-gb/about-tesa/sustainability>.
- (2) Without limiting § 14(1) and to the extent applicable, the Business Partner shall 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**"), the *Industrial Chemicals Act 2019* (Cth) ("**IC Act**") and any other analogous laws and regulations in Australia. In particular, the Business Partner shall not 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**") and any analogous laws and regulations in Australia.

- (3) The Business Partner shall inform us immediately of any changes in the statutory requirements for the Goods and performance of the Services by the Business Partner. The same applies if changes to the legal requirements have an impact on the manufacture or ingredients of the Goods or performance of the Services.
- (4) The Business Partner must respect and support the observance of internationally recognised human rights and to prevent any form of forced or child labour. Without limitation, the Business Partner must:
 - a. comply with all applicable modern slavery laws, including the *Modern Slavery Act 2018* (NSW) and the *Modern Slavery Act 2018* (Cth) ("**Modern Slavery Laws**");
 - b. provide all reasonable assistance and information as to the risks of trafficking in persons; slavery; servitude; forced marriage; forced labour; debt bondage; deceptive recruiting for labour or services; and the worst forms of child labour ("**Modern Slavery**") in its operations and supply chains required by us to satisfy our or our affiliates' reporting obligations;
 - c. take all reasonable steps to identify, assess and address risks of Modern Slavery in its operations and supply chains used in the performance of its obligations under these Terms and Conditions of Purchase; and
 - d. if at any time it becomes aware of Modern Slavery in its operations and supply chains used in the performance of its obligations under these Terms and Conditions of Purchase, take all reasonable action to address these practices and inform us of the practices identified and the redress taken.
- (5) The Business Partner is also obliged to comply with the provisions of the tesa Code of Conduct for Suppliers. This can be found at: <https://www.tesa.com/en-gb/about-tesa/sustainability/our-guidelines-and-standards>.
- (6) The Business Partner shall implement reasonable measures in its business to ensure compliance with the obligations set out in this § 14 by its suppliers, subcontractors and Business Partner Personnel.
- (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 (which shall be considered a material breach of these Terms and Conditions of Purchase) 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.

§ 15 Data protection

- (1) Each party must comply with all laws applicable to the processing of any information or opinion (whether true or not) about a living identified individual or an individual that is reasonably identifiable ("**Personal Information**") in collecting, storing, using, disclosing or otherwise processing ("**processing**" or "**process**") any Personal Information in accordance with these Terms and Conditions of Purchase.
- (2) The data required for the processing of the contract will be stored in our EDP system. We may process Personal Information about any Business Partner Personnel or otherwise disclosed by Business Partner Personnel in accordance with our published privacy policies

including our data protection declaration at <https://www.tesa.com/en-gb/about-tesa/legal-information/privacy-policy, and collection statements>.

- (3) The Business Partner must not, and must ensure that no Business Partner Personnel, supplier or subcontractor:
 - a. transfer(s) any data and information provided, owned or controlled by us; relating to our business or affairs or otherwise processed by the Business Partner under these Terms and Conditions of Purchase (“tesa Data”); or
 - b. allow(s) tesa Data to be accessed by persons, outside Australia and any other jurisdiction specified in an Order,
without our prior written consent.
- (4) If the Business Partner has access to any tesa Data in connection with these Terms and Conditions of Purchase, the Business Partner must:
 - a. process that tesa Data solely to the extent necessary to perform these Terms and Conditions of Purchase;
 - b. not process any Personal Information in the tesa Data in any manner which may cause us or companies affiliated with us to breach our published privacy policies and collection statements;
 - c. not disclose any Personal Information except to the Business Partner Personnel who need to access that Personal Information to perform these Terms and Conditions of Purchase;
 - d. not (without our prior written consent) contact any individuals whose Personal Information is in the tesa Data directly in connection with these Terms and Conditions of Purchase; and
 - e. promptly notify us in writing if any Business Partner Personnel receives any request from any government agency or individual whose Personal Information is in the tesa Data, and provide all information, cooperation and assistance reasonably required to enable us to comply with that request.
- (5) The Business Partner must take all reasonable steps to ensure that all tesa Data to which it becomes privy in connection with an Order is protected against misuse, interference and loss, and from unauthorised access, modification or disclosure.
- (6) If the Business Partner becomes aware of any actual or suspected unauthorised, unlawful or dishonest conduct or activity relating to the Business Partner’s obligations, information technology systems or networks, or any tesa Data, including any actual or suspected breach of this §15 (“**Security Breach**”), the Business Partner must immediately notify us and disclose all information relevant to the Security Breach (including any tesa Data affected) and comply with any reasonable direction from us with respect to investigation, remediation and assessment of the Security Breach.
- (7) Subject to §15(8), we are solely responsible for determining whether any Security Breach is notifiable under applicable laws and the Business Partner must provide all information and assistance required by us to determine whether a Security Breach is notifiable and not disclose to any third party the existence or circumstances surrounding any Security Breach without our prior written approval.
- (8) The Business Partner may notify a Security Breach if we fail to do so and the Business Partner is required to notify the Security Breach under applicable laws provided that the Business Partner must not reference us in such notification without our prior written approval as to the form and content of the reference.

§ 16 Applicable law and place of jurisdiction

- (1) The law of New South Wales, Australia shall apply to the exclusion of the United Nations Convention on Contracts for the International Sale of Goods (CISG; UN Sales Convention).

- (2) The parties submit to the non-exclusive jurisdiction of the courts of New South Wales for all disputes arising from or in connection with this contractual relationship.

§ 17 Insurance

- (1) The Business Partner must maintain the following insurances with a major insurance company:
 - a. workers' compensation insurance as required by law;
 - b. third party public and product liability insurance covering liability to any third party for death or bodily injury (including illness) and loss of or damage to property arising out of anything done or omitted to be done by the Business Partner for \$10,000,000 per incident; and
 - c. motor vehicle compulsory third party bodily injury insurance and third party property damage insurance covering any vehicles used by the Business Partner in connection with the provision of the Goods or Services for \$10,000,000 per incident.
- (2) The Business Partner must, if requested by us, provide us with certificates of currency for the insurances described in § 17.

§ 18 Termination

- (1) Either party may terminate these Terms and Conditions of Purchase or any Order by written notice to the other party if the other party:
 - a. commits a material breach and does not remedy the breach within fourteen (14) days or other period notified by the party in a written notice to the other party; or
 - b. suffers an **"Insolvency Event"** which means the occurrence of any event of insolvency including a winding up application being made and not withdrawn within twenty-one (21) days, a failure to comply with a statutory demand, the appointment of a provisional liquidator or administrator, the entering into of an arrangement with creditors, a voluntary winding up other than for the purpose of a bona fide corporate reconstruction, any inability to pay debts as and when they fall due, any admission of insolvency, any court order relating to any of the above or anything which occurs under the law of any jurisdiction which has a similar effect to any of the above; or
 - c. commits a material breach of § 12.
- (2) We may terminate these Terms and Conditions of Purchase or any Order for convenience upon sixty (60) days' written notice. If we terminate for convenience, we must pay the Business Partner the fees for the Goods and Services provided up to the date of termination and any termination costs agreed by the parties and set out in an Order.
- (3) All rights a party accrued before termination or expiry survive such termination or expiry.
- (4) All clauses that are by nature intended to survive the termination or expiry will survive such termination or expiry.

§ 19 Limitation of liability

- (1) In no event shall any party be liable for any Indirect Loss arising out of these Terms and Conditions of Purchase or any Order except that this exclusion of Indirect Loss will not apply to any indemnities given by the Business Partner or loss we suffer from Defects.
- (2) **"Indirect Loss"** means any loss that does not arise naturally and according to the usual course of things as a result of a breach of these Terms and Conditions of Purchase or other event giving rise to the loss, whether or not such loss may reasonably be supposed to have been in the contemplation of both parties, at the time they entered into these Terms and Conditions of Purchase, as the probable result of the breach or other event.

§ 20 General

- (1) If a provision of these Terms and Conditions of Purchase would, but for this § 20(1) be void, unenforceable or illegal in a jurisdiction:
 - a. the provision is read down to the extent necessary to avoid that result; and
 - b. if the provision cannot be read down, to that extent, it is severed in that jurisdiction,
without affecting the validity and enforceability of that provision in any other jurisdiction or any other provisions of these Terms and Conditions of Purchase.
- (2) Each indemnity in these Terms and Conditions of Purchase is a continuing obligation, separate and independent from the other obligations of the parties, and survives termination, completion or expiration of these Terms and Conditions of Purchase. It is not necessary for a party to incur expense or make any payment before enforcing a right of indemnity conferred by these Terms and Conditions of Purchase and the indemnifying party must pay any indemnified amount as a debt due to the other party on demand. The making of a claim by a party under an indemnity contained in these Terms and Conditions of Purchase in respect of a particular event does not preclude that party from subsequently making further claims under that indemnity in respect of the same event.
- (3) A party may exercise a right or a remedy, or give or withhold a consent, waiver or approval, in its absolute discretion (including by imposing conditions), unless these Terms and Conditions of Purchase expressly provide otherwise.
- (4) A party is only bound by a waiver that it gives or confirms in writing. A waiver is limited to the specific instance to which it relates and to the specific purpose for which it is given. No other conduct of a party (including a failure to exercise, or delay in exercising, a right) operates as a waiver of a right or otherwise prevents the exercise of a right.
- (5) The rights and remedies provided to a party in these Terms and Conditions of Purchase are in addition to, and do not exclude or limit, any right, power or remedy provided by law or equity or by any agreement.
- (6) The warranties, undertakings and indemnities in these Terms and Conditions of Purchase do not merge on completion of any transaction under or contemplated by these Terms and Conditions of Purchase.
- (7) Each party is responsible for its own costs of the negotiation, preparation, execution and performance of these Terms and Conditions of Purchase, except to the extent these Terms and Conditions of Purchase provide otherwise.
- (8) These Terms and Conditions of Purchase may only be amended by written agreement of the parties.
- (9) These Terms and Conditions of Purchase, as it may be amended from time to time pursuant to these Terms and Conditions of Purchase, will be binding upon and inure to the benefit of the parties and their respective permitted successors and assigns.
- (10) No provision of these Terms and Conditions of Purchase will be construed adversely to a party solely on the ground that the party was responsible for the preparation of these Terms and Conditions of Purchase or that provision.

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