

Terms and Conditions of Sale and Delivery of tesa SE

(June 2017)

1. Scope

The following Terms and Conditions of Sale and Delivery (hereinafter: „Terms of Sale“) apply exclusively for the entire current and future legal relationship between tesa SE (hereinafter: “tesa“) and Buyer concerning the purchase of movable goods (“Goods“). Upon placing an order by Buyer, but no later than upon the acceptance of the delivery of the Goods, Buyer acknowledges the sole binding application of these Terms of Sale. Should Buyer use conflicting, deviating or amending terms and conditions, their application in relation to tesa is excluded even if they have not been expressly contradicted by tesa.

2. Offer and Conclusion of Contract

- 2.1 Offers by tesa are non-binding and are only to be understood as a request for the delivery of an order. A contract shall not be concluded until tesa has provided a written confirmation of order, and the contract is defined solely by the content of the confirmation of order and/or these Terms of Sale. Oral agreements and/or commitments require written confirmation by tesa to become valid. E-mails are sufficient to meet the written form requirement of this clause 2.1.
- 2.2 Confirmations of order by tesa that deviate in material content from the original order are deemed to have been accepted if they have not been contradicted within three working days upon the receipt of the confirmation of order by Buyer.

3. Delivery Periods and Dates

- 3.1 Delivery dates and delivery periods are only binding if they have been confirmed by tesa in writing or in text form and Buyer has informed tesa of or provided tesa with all of the information, specifications of quality, approved plans, documents, permissions and approvals required for the execution of delivery in good time and paid any negotiated advance payments in accordance with the agreed terms. Negotiated periods commence upon the date of the confirmation of contract or the declaration of acceptance, as the case may be. In the event of additional or expanded order placed thereafter, the periods shall be extended accordingly.
- 3.2 Events which are unforeseeable, unavoidable and outside of the area of influence of tesa and for which tesa is not responsible (such as acts of God, war, natural disasters, strikes, lockouts, government measures, shortages of energy or raw materials, damage caused by fire and explosion, transportation and operational problems, actions by higher authorities or similar events) shall release tesa for their duration from its duty to make timely delivery of goods or services. The negotiated period shall be extended by the duration of the incident; Buyer shall be informed in an appropriate manner of the occurrence of a problem. tesa is not obliged to procure replacement goods from third parties. Where the end of the problem is not foreseeable or the problem continues for more than two months, each party is entitled to rescind the contract with respect to the scope of delivery affected by the problem.
- 3.3 With respect to the delivery of those Goods for which tesa procures raw materials and supplier parts from suppliers, delivery is subject to the timely delivery by such suppliers.
- 3.4 Where deliveries by tesa are delayed, Buyer is only entitled to rescind the contract if tesa is responsible for the delay and has allowed a reasonable deadline for delivery set by Buyer to have passed.
- 3.5 If Buyer is in default of acceptance or in breach or other duties of cooperation, tesa is entitled – irrespective of its other rights – to store the Deliverable at the risk and expense of Buyer or to rescind the contract.
- 3.6 tesa may make partial delivery on justified grounds, provided this can be reasonably expected of Buyer. tesa is entitled to deviate from the agreed goods or services on justified grounds, provided this can be reasonably expected of Buyer.
- 3.7 tesa is not obliged to make delivery of the Goods by air freight or a comparable accelerated means of transport.

4. Minimum Order Value and Volume, Shipping, Packaging, Passage of Risk

- 4.1 The minimum value of order is generally EUR 350. Upon compliance with this minimum value of order and acceptance by tesa pursuant to clause 2.1, tesa shall bear the freight and shipping costs. Should Buyer not comply with this minimum value of order and should the order nevertheless be accepted by tesa in justified exceptions and should the Goods be delivered, Buyer will be charged with a proportionate share of the freight/shipping costs in the minimum amount of EUR 25.50. The minimum volume of order per delivery number is one package unit; smaller volumes shall not be delivered even where the minimum value of order is met.
- 4.2 The Goods shall be shipped in the normal tesa packaging.
- 4.3 Risk shall pass to Buyer upon the transfer of possession of the Goods to the shipping company or to Buyer itself. If transfer of possession or shipment is delayed on grounds for which Buyer is responsible, risk shall pass to Buyer on the date of the notification of the availability of the Goods for shipment.

5. Prices, Terms of Payment

- 5.1 All contracts are based on the prices and rates of discount applicable on the date of the acceptance of order, provided no other agreement has been made by the parties.
- 5.2 All tesa prices are denominated in EUR and are net of the applicable VAT.

Provided nothing to the contrary is agreed between tesa and Buyer, any additional taxes shall be borne by Buyer; this applies in particular to all VAT or similar taxes in the country from which tesa issues its invoice. Such taxes shall be invoiced in the relevant amount provided by law and are payable accordingly.

For deliveries outside of the EU, Buyer undertakes to provide proof of an equivalent export notice to tesa within 20 working days after the date of invoice. If this proof is not provided, tesa is entitled to charge VAT afterwards. For deliveries within the EU, Buyer undertakes to confirm to tesa by way of an entry certificate (Gelangensbestätigung) complying with the requirements of Sec. 17a (2) No. 2 German VAT Execution Regulations (Umsatzsteuer-Durchführungsverordnung [UStDV]) that the contract products have entered the other territory of the Community. If this proof is not provided and tesa cannot obtain it from third parties, tesa is entitled to charge VAT to Buyer afterwards.

- 5.3 tesa is entitled to issue partial invoices for partial deliveries within the meaning of clause 3.6.
- 5.4 Each invoice is due for payment without deductions within 14 days of receipt by Buyer, provided nothing to the contrary is determined in tesa's confirmation of order. Default shall occur upon failure to pay upon expiration of this deadline.

Payments by Buyer shall not be deemed to have been made until tesa may avail itself of this payment.
- 5.5 If Buyer is in default of payment, tesa is entitled to demand interests in the statutory amount. The assertion of further default damages shall remain unaffected.
- 5.6 Buyer is only entitled to a set-off if his counterclaim is uncontested or has been finally adjudicated.
- 5.7 Buyer is only entitled to assert a right of retention to the extent his counterclaim is based on the same contract and is uncontested or has been finally adjudicated.
- 5.8 If tesa, after conclusion of the contract, becomes aware of the risk of a lack of ability to make payment on the part of Buyer, tesa shall be entitled to execute outstanding deliveries only against prepayment or a payment bond. If the prepayments or payment bonds are not provided even upon the expiration of a reasonable period of grace, tesa may cease deliveries until the prepayments or the payment

bonds are provided or may rescind individual or all affected contracts in full or in part. In such case tesa shall remain entitled to assert further rights.

6. Retention of Title

- 6.1 The Goods shall remain in the ownership of tesa until the full payment of any and all claims of tesa under the business relationship with Buyer has been made.
- 6.2 In the case of a current account, the reserved title shall be deemed to secure tesa's claim to the outstanding balance.
- 6.3 Buyer is only permitted to sell the Goods subject to the retention of title („Reserved Products“) within the normal course of business transactions. Buyer hereby assigns its claims under the resale of the Goods to tesa, and tesa hereby accepts such assignment. Buyer is authorized to collect in trust the assigned claims for tesa in its own name, subject to withdrawal of such authorization. tesa may withdraw the authorization and the entitlement to resell the Goods if Buyer is in default of major obligations such as payment to tesa; in the event of a withdrawal of authorization, tesa is entitled to collect the claims itself. Buyer is not entitled to pledge the Reserved Products or to transfer title as security or otherwise make disposals that would threaten tesa's ownership. In the event Buyer sells the Reserved Products following processing or alteration or upon connection or commixture with other goods or otherwise together with other goods, the assignment of claim shall be deemed to only apply in the amount of the portion equivalent to the price agreed to between tesa and Buyer plus a security margin of 10 % of such price.
- 6.4 Buyer shall provide tesa at all times with all requested information on the Reserved Products or on the claims that have been assigned to tesa hereunder. Interventions or claims by third parties on the Reserved Products must be reported to tesa by Buyer immediately upon delivery of the necessary documents. Buyer shall inform the third party or parties at the same time of the tesa's retention of title. The costs of the defence against such interventions and claims shall be borne by Buyer.
- 6.5 Buyer is obliged to label the Reserved Products separately as the property of tesa to the extent possible for the duration of the retention of title and to handle them with care.
- 6.6 If the realisable value of the security exceeds the overall claims of tesa to be secured by more than 10 %, Buyer is entitled to demand a release to such extent.
- 6.7 Should Buyer be in default of major obligations in relation to tesa such as payment obligations, notwithstanding other rights, tesa may repossess the Reserved Products and otherwise enforce its security upon the rescission of the contract for the purpose of satisfying the mature claims against Buyer. In the event of a claim for the surrender of the Reserved Products, Buyer shall immediately grant tesa or an authorized representative of tesa access to the Reserved Products and surrender them. If tesa demands surrender under this provision, this, on its own, shall not be deemed a rescission of contract.

7. Quality, Rights of Buyer in Case of Defects, Obligation to Inspect

- 7.1 The Deliverable shall exhibit the agreed quality upon the passage of risk; the agreed quality is measured solely by the specific agreements on properties, features and performance characteristics of the Deliverable made in writing between the parties which are set down in writing in the standard tesa product descriptions or product designations („Quality Agreement“), insofar as a Quality Agreement does not expressly refer to non-binding contents (e.g. average figures). tesa shall not assume any general warranty for the suitability of its Goods for certain purposes of application pursued by Buyer. Buyer is alone responsible for the decision whether a product complying with the specific agreements on properties, features and performance characteristics is suitable for a certain purpose and for the nature of its use.

- 7.2 In the event of processing in accordance with the quality descriptions, plans, sketches, drawings, etc. drafted and released by Buyer (hereinafter: „Quality Specifications“), quality shall be measured solely in accordance with these released Quality Specifications and the other agreements on quality the parties may make. Buyer is not entitled to any warranty claims whatsoever against tesa for defects in the Deliverable due to the Quality Specifications released by Buyer. In particular, Buyer is solely responsible for the accuracy and feasibility of all of the Quality Specifications and supplements thereto drafted, delivered to tesa and released by Buyer.
- 7.3 Information in catalogues, price lists and other informational material provided to Buyer by tesa, as well as product-descriptive information, are not to be understood in any event as guarantees for a particular quality of the Deliverable; such guarantees of quality must be expressly agreed in writing.
- 7.4 Normal commercial discrepancies in volume and weight within the range of up to 10 % from the order volume are permitted. Normal commercial discrepancies in quality/properties caused by the Deliverable are also permitted.
- 7.5 Rights of Buyer for defects in the Deliverable require that he has examined the Deliverable upon delivery and has informed tesa in writing without undue delay, but by no later than two weeks of delivery of the defects upon provision of the invoice number; obvious transport damage and incomplete or obviously false deliveries must be notified in writing to tesa in any event without undue delay. Hidden defects must be notified to tesa without undue delay in writing upon discovery.
- 7.6 In the case of each notice of a defect, tesa shall be entitled to a right to inspect and test the Deliverable in question. Buyer shall grant tesa the necessary time and opportunity to do so. tesa may also demand of Buyer that he send the Deliverable in question to tesa at tesa's expense.
- 7.7 tesa shall remedy defects at its option by a removal of the defect free of charge for Buyer or by an alternative delivery of a defect-free item (jointly referred to as „Supplementary Performance“).
- 7.8 The costs of transport, travel, labour and materials incurred for the purpose of Supplementary Performance shall be borne by tesa. Where the notice of a defect proves to be intentionally or grossly negligently unjustified and this was recognizable to Buyer prior to the notice of a defect, Buyer shall be obliged to compensation to tesa for all of the costs and damages incurred in this context (for instance, travel and shipping costs).
- 7.9 Should the Supplementary Performance fail or if it cannot be reasonable expected of Buyer or if tesa refuses Supplementary Performance under Sec. 439 (3) German Civil Code, Buyer, at its choice and in analogous application of the legal provisions, may rescind the contract, reduce the purchase price and/or demand damages pursuant to clause 8 or compensation for his expenses.
- 7.10 The limitation period for Buyer's rights due to defects shall be twelve months as of the delivery of the Deliverable at Buyer. The statutory limitation periods apply for damage claims by Buyer on grounds other than defects in the Deliverable and with regard to Buyer's rights in the event of defects that have been fraudulently concealed or caused intentionally.

8. Liability and Damages

- 8.1 tesa's liability for breaches of major contractual duties or "cardinal duties" caused by slight negligence is limited in amount to the damage typical to the contract and foreseeable upon the conclusion of contract. Major contractual duties (or cardinal duties) are those duties that procure a legal position for Buyer which the content and purpose of the contract are supposed to grant to him, as well as those duties whose performance make it possible that the contract is at all properly performed and upon whose observance Buyer regularly relies and may rely.

- 8.2 tesa is not liable for a slightly negligent breach of its obligations under the contract other than those stated in clause 8.1.
- 8.3 Otherwise, the statutory claims by Buyer to damages are not affected; in particular, tesa is liable for intent and gross negligence in the full amount.
- 8.4 The aforesaid limitations of liability in clauses 8.1 and 8.2 do not apply in cases of mandatory statutory liability (particularly under the Product Liability Act), culpable personal injury by tesa or for guarantees given by tesa or for the fraudulent concealment of defects.
- 9. Product Liability**
- If Buyer sells the Deliverable, he shall indemnify tesa within their internal relationship for product liability claims by third parties, provided he is responsible for the defect giving rise to the liability.
- 10. Defects in Title and Proprietary Rights**
- 10.1 tesa is not aware of any finally adjudicated claims of third parties which would prevent a use of the Goods in accordance with the defined intention and terms of contract. Beyond this, tesa shall not assume any liability in defects in title.
- 10.2 Buyer is obliged to inform tesa without undue delay if claims are made against Buyer by third parties due to the use of the delivered goods in accordance with the defined intention and terms of contract regarding the infringement of proprietary rights or if third parties have addressed inquiries of Buyer's entitlement to Buyer. The same applies if Buyer otherwise become aware that the used of the delivered goods in accordance with the terms of contract may possibly infringe the rights of third parties. In these cases, tesa shall be entitled to terminate the existing delivery contracts for cause. tesa shall also be entitled to terminate the delivery contracts for cause if tesa is in danger of infringing the rights of third parties itself by executing the delivery contracts.
- 10.3 In the event of an intervention by a third party against Buyer within the meaning of clause 10.2., tesa shall support Buyer to the best of its ability in the defence of such claims in relation to the third party. This shall require that Buyer has not delivered any statements to third parties to the detriment of tesa.
- 11. General Provisions**
- 11.1 Buyer may not assign his claims against tesa to third parties without written consent of tesa.
- 11.2 Changes and amendments to contractual agreements between tesa and Buyer and/or these Terms of Sale and any side agreements shall require written form. This shall also apply for the modification of this written form requirement.
- 11.3 If a provision of the contractual agreements between tesa and Buyer and/or these Terms of Sale are fully or partially invalid, this shall not affect the validity of the remaining provisions. The parties undertake in this case to replace the invalid provision through a valid one that comes closest to the commercial intention of the invalid provision.
- 11.4 Place of performance for all reciprocal claims is Hamburg.
- 11.5 Exclusive venue for all disputes under the contractual relationship is Hamburg. However, tesa is entitled to sue Buyer before any other court of statutory jurisdiction.
- 11.6 The law of the Federal Republic of Germany shall apply upon exclusion of the UN Convention for the International Sale of Goods (CISG; UN Sales Law).

Please note: The quality of the tesa® products is tested on a continuous basis at the highest possible level and is thus subject to strict controls. All information and recommendations are given by us to our best knowledge based on our practical experience. Nevertheless, tesa does not assume any express or implied warranty for the suitability of a tesa® product for certain purposes that have not been expressly agreed between tesa and Buyer in writing. For this reason, Buyer is himself responsible for the decision on whether a tesa® product is suitable for a certain purpose and for Buyer's type of use, provided the product complies with the properties, features and performance characteristics that have been specifically agreed. Should you require assistance in this regard, our technical staff would be happy to advise you.