

Terms and Conditions of Sale and Delivery of tesa tape (Thailand) Ltd

1 Scope

The following Terms and Conditions of Sale and Delivery (hereinafter: "**Terms of Sale**") apply exclusively for the entire current legal relationship between tesa tape (Thailand) Ltd (hereinafter: "tesa") and Buyer concerning the purchase of movable goods ("Goods"). Upon placing an order, 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

Offers by tesa are non-binding and are only to be understood as an invitation to place 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.

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

Any delivery dates and delivery periods stated in orders of the Buyer 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 order by tesa 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.

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, acts of terrorism, epidemics, natural disasters, strikes, lockouts, occupations of factories and facilities, government measures, shortages of energy, materials or raw materials, damage caused by fire and explosion, transportation and operational problems, sovereign acts (whether lawful or unlawful) or similar events ("**Force Majeure Events**"), shall release tesa from 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 and end of the disruption. tesa is not obliged to procure replacement goods from third parties to Buyer due to the occurrence of any Force Majeure Events. 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.

tesa's delivery obligations for delivery of those Goods for which tesa procures raw materials and supplier parts from suppliers, delivery is subject to the timely and correct delivery by such suppliers to tesa.

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.

If Buyer is in default of acceptance or in breach or other actions of cooperation incumbent upon him, tesa is entitled - irrespective of its other rights - to store the Goods at the risk and expense of Buyer or - in case of a breach of obligation - to rescind the contract.

tesa may make partial delivery, provided (i) the partial delivery can be used by the Buyer within the scope of the contractual purpose, (ii) the delivery of the remaining ordered Goods is secured and (iii) the Buyer does not incur any considerable additional effort or costs.

Insofar as tesa bears the delivery costs pursuant to clause 4 of these Terms of Sale, tesa is entitled to exercise its sole discretion in determining appropriate means of transportation for the said delivery, and tesa shall not be 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

tesa does not accept orders below a minimum order value of THB 6,800 net. Upon compliance with this minimum value of order and acceptance pursuant to clause 2.1 or 2.2, 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 the actually occurred, proportionate share of the freight/shipping costs, however the freight/shipping costs payable by Buyer for the said order shall not be less than THB 1,200 net. The minimum volume of order per delivery number is one package unit; orders for smaller volumes shall not be accepted even where the minimum value of order is met. Buyer arranging self-collection will be exempted from the minimum order value.

The Goods shall be shipped respectively handed over in the normal tesa packaging.

The risk of accidental loss and accidental deterioration shall pass to Buyer upon the transfer of possession of the Goods to the shipping company or - in case of self-collection - upon handing over to Buyer. 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.

As far as applicable, Buyer is obliged to clear the Goods for import into the country of destination, to pay the applicable import duties and to complete the corresponding import formalities at its own costs and expenses.

5 Prices, Terms of Payment

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.

All tesa prices are denominated in Thai Baht and are net of the applicable VAT (currently at 7%). 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. tesa is entitled to issue partial invoices for partial deliveries within the meaning of clause 3.6, and Buyer shall be obliged to make payment for such partial invoices accordingly.

The term of payment shall be as agreed by tesa and Buyer. 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 automatically upon failure to pay upon expiration of this deadline. Buyer shall be obliged to provide proof of payment to tesa as soon as practicable after any payment has been made. Payments by Buyer shall only be deemed to have been made once tesa has received this payment.

If Buyer is in default of payment, tesa is entitled to demand interests in the statutory amount, and tesa is also entitled to any and all of its legal rights under applicable laws and regulations to claim compensations for any damages or loss, and to initiate legal proceedings against the Buyer.

The Buyer shall only be entitled to set off counterclaims or withhold payments due to such claims if his counterclaims are undisputed or have been declared final and absolute or result from the same contract under which the relevant delivery was made.

If tesa, after conclusion of the contract, becomes aware of the actual or suspected 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 another payment guarantee. If the prepayments or other payment guarantees 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

tesa shall retain ownership over the Goods until the full payment of any and all claims of tesa under the business relationship with Buyer has been made.

In the case of a current account, the reserved title shall be deemed to secure tesa's claim to the outstanding balance.

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 not entitled to pledge the Reserved Products or to transfer title as security or otherwise make dispositions 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.

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.

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 due care and diligence as a reasonably prudent person would exercise under similar circumstance.

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.

Should Buyer be in default of major obligations in relation to tesa such as payment obligations, notwithstanding other rights, tesa may rescind the contract in accordance with the statutory provisions. If tesa rescinds the contract, tesa is entitled to repossess the Reserved Products and otherwise enforce its security for the purpose of satisfying the mature claims. 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.

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

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

In the event of production of Goods 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 written agreements on quality the parties may make. Characteristics of the Goods which are based on the Quality Specifications released by Buyer do not constitute a material defect, so that Buyer is not entitled to any warranty claims against tesa in this respect. 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.

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 or durability of the Goods; such guarantees of quality or durability must be expressly agreed in writing.

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 Goods are also permitted.

The Goods are to be inspected by Buyer immediately after their delivery to Buyer, insofar as this is feasible in the normal course of business. Buyer shall notify the carrier of any externally visible loss or damage to the Goods upon delivery. Other obvious defects of the Goods which would have been recognizable in an immediate inspection shall be deemed to have been approved by Buyer if tesa does not receive a written notice of defects stating the invoice or order number within seven days of delivery. Goods which have a hidden defect shall be deemed to be approved if tesa does not receive a written notice of defects from Buyer within seven days after the time at which the defect became apparent.

In the case of each notice of a defect, tesa shall be entitled to a right to inspect and test the Goods in question. Buyer shall grant tesa the necessary time and opportunity to do so, tesa may also demand of Buyer that he send the Goods in question to tesa at tesa's expense.

tesa shall remedy defects at its option by a removal of the defect or by an alternative delivery of a defect-free item (jointly referred to as "**Supplementary Performance**").

The costs of transport, travel, labour and materials necessary for the purpose of Supplementary Performance shall be borne by tesa. Where the notice of a defect proves to be unjustified and Buyer disregarded the corresponding indications when submitting the notice of defects in an intentional or grossly negligent manner, Buyer shall be obliged to compensate tesa for all of the costs and damages incurred in this context (including, without limitation, travel and shipping costs).

Should the Supplementary Performance fail, i.e. if it is impossible, if it cannot be reasonably expected of Buyer, if it is unreasonably delayed, or if tesa refuses Supplementary Performance, Buyer, at its choice and in analogous application of the legal provisions, may rescind the contract or, reduce the purchase price and/or demand damages pursuant to clause 8 or compensation for its expenses.

The limitation period for Buyer's rights due to defects of the Goods shall be one year from the date of which the defect is detected by the Buyer. The statutory limitation periods shall apply instead for damage claims by Buyer due to injury to life, body or health culpably caused by tesa or its vicarious agents as well as for other damage caused by gross negligence and intent.

8 Liability and Damages

tesa's liability for breaches of major contractual duties or "cardinal duties" caused by slight negligence is limited in amount to the damage foreseeable and typical to the contract 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.

tesa is not liable for a slightly negligent breach of its obligations under the contract other than those stated in clause 8.1.

Otherwise, the statutory claims by Buyer to damages are not affected; in particular, tesa is liable for intent and gross negligence in accordance with the statutory provisions.

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 injury by tesa to life, body or health or for guarantees given by tesa or for the fraudulent concealment of defects.

Buyer is obliged to promptly provide tesa with evidence of any damage claimed. tesa is entitled to withhold or refuse to compensate any damage claimed should the Buyer fails to provide such evidence. Any contractual penalties and/or lump-sum damages provided for in Buyer's terms and conditions shall not apply (cf. clause 1 of these Terms of Sale).

9 Indemnity Obligation of Buyer

If Buyer resells the Goods, he shall indemnify tesa within their internal relationship for product liability claims or other claims by third parties, provided he is responsible for the (material) defect giving rise to the liability.

10 Defects in Title and Proprietary Rights

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.

If Buyer nevertheless infringes the industrial property rights or copyrights of third parties ("Property Rights") which are to be recognised as legally valid through the use of the Goods in accordance with the provisions and the contract, tesa shall procure the right to further use for Buyer at its own expense or modify the Goods in a manner which is reasonable for Buyer in such a way that the infringement of Property Rights no longer exists. If this is not possible at economically reasonable conditions or within a reasonable period of time, Buyer and tesa shall each be entitled to withdraw from the contract. In addition, tesa shall indemnify Buyer - within the limits of clause 8 - from undisputed or legally established claims of third parties.

Buyer is obliged to inform tesa without undue delay if claims are made against Buyer by third parties due to the use of the Goods in accordance with the defined intention and terms of contract based on the infringement of Property Rights or if third parties have addressed inquiries of Buyer's entitlement to Buyer. The same applies if Buyer otherwise become aware that the use of the Goods in accordance with the defined intention and 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. tesa shall not be held liable whatsoever for terminating delivery contracts under these circumstances.

In the event of an intervention by a third party against Buyer within the meaning of clause 10.3, tesa shall support Buyer to the best of its reasonable 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, whether directly or indirectly.

11 Test procedures of the Buyer

Costs for any test procedures of the Buyer or Buyer's customer shall only be compensated by tesa with prior and explicit approval of tesa.

12 General Provisions, Code of Conduct

Buyer may not assign his claims against tesa - except for pecuniary claims - to third parties without prior written consent of tesa.

Changes and amendments to contractual agreements between tesa and Buyer and/or these Terms of Sale and any side agreements shall require written form. These shall also apply for the modification of this written form requirement.

In order to comply with the written form required in these Terms of Sale, telecommunication transmission, in particular by fax or e-mail, is sufficient, providing that no delivery failure notification is received by the sender.

If a provision of the contractual agreements between tesa and Buyer and/or these Terms of Sale are fully or partially void or invalid, this shall not affect the validity of the remaining provisions. The parties undertake in this case to replace the void or invalid provision by a valid one that comes closest to the commercial intention of the void or invalid provision.

Place of performance for all reciprocal claims is the registered office of tesa.

Non-exclusive venue for all disputes under or in connection with the contractual relationship shall be at the competent court of Thailand.

The applicable laws and regulations on Thailand shall apply upon exclusion of the UN Convention for the International Sale of Goods (CISG; UN Sales Law).

The Buyer undertakes to comply with the basic principle of the tesa Code of Conduct. This can be found at: [Code of Conduct](#) (Available on tesa.com).

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.