

EVERY DENNISON MATERIALS PTY LIMITED

TERMS OF TRADE

Avery Dennison Materials Pty Limited ("**the Company**") sells or offers for sale its Products on the following terms and conditions.

1. GENERAL

An order placed with the Company is an order incorporating these Terms and Conditions of Trading exclusively notwithstanding any inconsistencies which may be introduced in order of acceptance unless the same are expressly agreed to by the Company in writing, and notwithstanding that the Company may fill any such order. Acceptance of goods shall constitute acceptance of these terms.

2. QUOTATION

Unless previously withdrawn any quotation is valid for thirty (30) days, or such other period as is stated therein.

A Quotation is not an obligation to sell but is an invitation to submit an order and no contractual relationship arises therefrom until the Company has accepted an order.

3. EXPRESS WARRANTY

3.1 Information provided by the Company concerning Products, including in any Product Datasheet is based upon tests believed to be reliable but do not represent a guarantee or warranty. Products are provided on the basis that any Purchaser has independently determined the suitability of the Products for Purchaser's purposes. The Company warrants the products to be free from defects in material and workmanship. Should any failure to conform to this warranty appear within thirty (30) days of delivery (but not afterwards), upon notification thereof within seven (7) days of such appearance and substantiation that the Products have been stored and applied in accordance with the Company standards, the Company shall within a reasonable period correct such defects by providing a suitable replacement without charge at the Company's plant or at the location of the Products (at the Company's election) provided however, if the Company in its sole discretion, acting reasonably, determines that replacement is not commercially practical, the Company may issue a credit in favour of the Purchaser in an amount not to exceed the purchase price actually paid for the Products.

3.2 To the maximum extent permitted by law (including under the Australian *Competition and Consumer Act 2010* (Cth)):

- (a) any implied warranty of merchantability fitness for particular purpose or other warranty of quality, whether express or implied by law, is hereby excluded;
- (b) in no event shall the Company be liable for any incidental, indirect or consequential damages including, but not limited to, loss of profit, loss of use or production or loss of capital;
- (c) the remedies of The Purchaser set forth herein are exclusive, and the total potential liability of the Company arising out of any contract or from the manufacture, sale, delivery, resale, installation or use of any products shall not exceed the purchase price of the products upon which liability is based.

4. ORDERS

Any order must be in writing, bear a reference number and be signed by the Purchaser. In the absence of a written order the Company reserves the right to reject or cancel any order. Orders are subject to acceptance by the Company.

5. ORDERING OVER THE INTERNET

In this clause:

- (i) "Non-secure Location" means a location other than a Secure Location including but not limited to:
 - (a) internet cafes;
 - (b) a Purchaser's residence;
 - (c) hotels or motels; or
 - (d) airport lounges;

"Secure Location" means any office maintained by a Purchaser which houses a secure local area network (LAN) that is used in the ordinary course of its business to allow staff to access the Internet; and

For convenience a Purchaser may order Products via a Company Website ("**on-line ordering system**"). The Company may issue the Purchaser with one or more usernames/passwords ("**Password**") for this purpose.

The Purchaser may at any time use the on-line ordering system from a Secure Location. The Purchaser must not attempt to access the on-line ordering system from a Non-Secure Location. The Purchaser may only access the on-line ordering system from a Non-Secure Location if it is not practicable to access the on-line ordering system from a Secure Location.

The Purchaser must ensure that Passwords are kept safe and secure at all times. The Purchaser must ensure that:

- (i) it does not reveal or otherwise disclose its Password/s to unauthorised persons;
- (ii) its Password/s is not recorded in any way that would allow a third party to identify it as an access device.

A Purchaser must notify the Company of any Password that:

- (i) has been compromised or is suspected of being compromised; or
- (iii) has been used in an unauthorised manner or is suspected of being used in an unauthorized manner as soon as the Purchaser becomes aware of such facts.

The Company may invalidate a Password at any time without notice to the Purchaser if the Company believes in its absolute discretion, acting reasonably, that the Password is being, or has been, used in an unauthorized manner.

The Purchaser must ensure that prior to an officer or employee of the Purchaser obtaining a Password, that such officer or employee agrees to be bound by the terms and conditions in this clause 5.

The Purchaser must ensure that any officer, employee or any other person who obtains a Password is authorised to use the on-line ordering system, including for the purposes of:

- (i) accessing order status information; and
- (iv) making orders on behalf of the Purchaser.

If any officer, employee or other person ceases to have authority to use a Password for whatever reason (including termination of employment), the Purchaser must immediately change any and all Passwords that were disclosed or in any way made known to that person.

The Purchaser shall indemnify the Company for any direct or indirect loss it suffers as a result of a breach of the terms and conditions in this clause 5, except to the extent the loss is a direct result of any fraudulent or negligent act or omission by the Company or its officers, agents or employees. The Purchaser is responsible for all orders and other communications sent to the Company as a result of the use of Purchaser's Password(s).

6. PRICE

Unless otherwise expressly agreed in writing the price of the Product shall be the Company's standard list price at the date of delivery. Where no list price exists, the price shall be that quoted by the Company. The Company reserves the right to change prices without notice prior to the Purchaser placing an order. Prices are net to the Company and are exclusive of any customers or other duties and taxes, slitting and shipping charges.

Orders calling for future delivery shall be billed at prices in effect on the shipping date. Unless stated otherwise herein, different products on an order may not be combined to obtain quantity pricing. Shipments which are more or less than the actual quantity ordered shall constitute filling the order if such variance does not exceed the following percentages: (i) 10%, for stock and custom orders where The Company purchases standard materials; (ii) 20%, for custom orders where the Company purchases non-standard materials; and (iii) 15%, for all two-pass constructions, PURCHASER shall be billed only for the quantity actually shipped plus, if applicable, trim loss.

7. CANCELLATION

Once accepted by the Company, orders cannot be cancelled by the Purchaser except upon terms, which will fully compensate the Company against all and any loss occasioned to it as a consequence of such cancellation.

8. PAYMENT

The terms of payment are 30 days from statement date (unless otherwise agreed) with a discount, the quantum of which the Company will determine in its absolute discretion, for payment of accounts within 21 days of invoice date.

Amounts not paid within thirty days of date of invoice will be subject to a late payment charge of 1.0% per month on the unpaid balance to be included on each month's statement until paid. The imposition of such charge is not intended to infer any consent, acquiescence or other agreement, expressed or implied, on the part of the Company to forbear or otherwise defer collection of such amounts when due. To the contrary, the Company expects payment on or before the due date of each invoice and intends to take all necessary and feasible action to enforce prompt payment. The Purchaser confirms, acknowledges and agrees that it would be impracticable, extremely difficult and unduly expensive to attempt to determine the actual damage sustained by the Company as the result of the default in payment of any individual account and that the charge of 1.0% per month referred to above represents a reasonable endeavour to fix the Company's minimum probable loss resulting from delinquent payment, that such charge bears a reasonable relation to such loss and that such charge is reasonable in amount. If in the Company's opinion, acting reasonably, the Purchaser's financial condition does not justify continuance of production or

shipment on the terms of payment specified, the Company may require payments in advance. Failure of the Purchaser to pay any Company invoice by its due date makes all subsequent invoices immediately due and payable irrespective of terms and the Company may withhold subsequent deliveries until the full account is settled.

9. ACCEPTANCE

The Company reserves the right to accept any order in whole or in part or to refuse any Order.

10. DELIVERY

- 10.1 The Company will deliver FIS Purchaser's premises within Australia and New Zealand unless otherwise agreed.
- 10.2 All delivery dates quoted are estimates only and the Company shall not be liable for failure to deliver or any delay in delivery arising from any cause whatsoever beyond the control of the Company. The Purchaser shall not be relieved of any obligation to accept or pay for the Products by reason of any delay in delivery or dispatch.
- 10.3 The Company reserves the right to deliver by instalments and each instalment shall be deemed to be sold under a separate contract. Failure of the Company to deliver an instalment shall not entitle the Purchaser to rescind or repudiate the balance of any contract.
- 10.4 The title and risk of loss of the Products shall pass from the Company to Purchaser when the Products are delivered to Purchaser.
- 10.5 The Purchaser shall notify the Company within seven (7) days of the date of delivery of Products of any claim the Purchaser has against the Company for late delivery (subject to clause 10.2 hereof) and of any deficiency in quantity and no such claim shall be entertained by the Company thereafter.
- 10.6 Where products are delivered in accordance with the Purchaser's specifications, the Purchaser shall indemnify the Company against all claims and demands in respect of the infringement of any intellectual property or other rights of third parties, except where the claims or demands arise as a direct result of any fraudulent or negligent act or omission by the Company or its officers, agents or employees.

11. USE OF PRODUCTS

- 11.1 The Purchaser acknowledges and agrees that:
- (a) the Products are not required for, and are not of a kind ordinarily acquired for personal, domestic or household use or consumption;
 - (b) the Products are being acquired for the purposes of re-supply or for using them up or transforming them in the course of a process of production or manufacture ("**Manufactured Goods**"); and
 - (c) the Purchaser will inform any purchaser of the Manufactured Goods of any reasons why the Products and/or the Manufactured Goods will or may not be fit for all the purposes for which goods of that kind are commonly supplied, and/or the purposes for which such purchaser requires the Manufactured Goods, including but not limited to having regard to any information provided by the Company concerning the Products, including in any Product Datasheets.

12. RETURNS

Products sold by the Company are returnable only in accordance with the warranty provisions hereof, or where otherwise permitted by law including under the Australian *Competition and Consumer Act 2010* (Cth) Before returning any product, the Purchaser must obtain the Company's written material return authorization and instructions.

13. ASSIGNMENT

Any assignment of this agreement, an order or of any rights hereunder or hypothecation hereof in any manner, in whole or in part, without the prior written consent of the Company shall be void.

14. FORCE MAJEURE

The Company shall not be liable for any loss, damage, delays, changes in shipment schedules or failure to deliver caused by accident, fire, strike, riot, civil commotion, insurrection, war, the elements, embargo, failure of carrier, inability to obtain transportation facilities, government requirements, acts of God or public enemy, prior orders from others or limitations on the Company's or its suppliers' products or marketing activities or any other cause or contingency beyond the Company's control.

15. ENTIRE AGREEMENT

These terms and conditions embody the entire agreement and understanding between the parties, are intended as a complete and exclusive statement of the terms of agreement regarding the products [set forth on the Company's Sales Order between the parties], and supersede any prior or collateral agreement or understanding between the parties relating to the subject matter hereof (including those that may be contained on the Purchaser's order, which are inconsistent with the terms and conditions in these Terms of Trade). The Purchaser acknowledges that the Company has not made any representation to the Purchaser other than those, which are specifically referred to or contained herein. Each paragraph and provision hereof is severable and if any provision is held invalid or unenforceable, the remaining provisions shall nevertheless remain in full force and effect.

16. WAIVER

No waiver, alteration or modification of the foregoing terms and conditions shall be valid unless made in writing and signed on behalf of the Company by an officer of the Company duly authorised to do so. No waiver by the Company with respect to any breach or default or any right or remedy or any variation of the foregoing terms and conditions shall be deemed to constitute a continuing waiver of any other breach or default or any other right or remedy or any other variation of the foregoing terms and conditions.

17. BREACH

A breach by the Purchaser of all or any of the terms and conditions herein contained shall entitle the Company to consider the order as cancelled, without prejudice to the right of the Company to recover damages for breach of contract or otherwise.

18. CONSTRUCTION OF CONTRACTS

The validity, interpretation and performance of any contract for the sale of Products by the Company to the Purchaser shall be governed by and constructed in accordance with the laws of the State of New South Wales, Australia.

19. PPSA

A term in italics in this clause has the same meaning as it has in the Personal Property Securities Act 2009 (Cth) ("PPSA"), as amended from time to time or regulations under the PPSA.

- (1) This clause applies if at any time the Company retains legal title to the Products pursuant to condition 10.4. The Purchaser acknowledges and agrees that:
 - a) The Company is a secured party in relation to the Products and any proceeds of the sale of the Products, and is entitled to register its interest on the register established under the PPSA as a security interest or a purchase money security interest, at the discretion of the Company;
 - b) the Company may, by notice to the Purchaser, require the Purchaser to take all steps that the Company, acting reasonably considers necessary or desirable to ensure its security interest in the Products is enforceable, and to perfect, or better secure the position of the Company under this Terms of Trade as a first ranking security;
 - c) The Purchaser must comply with a notice from the Company under clause 19(1)(b) at the cost and expense of the Purchaser;
 - d) The Purchaser must promptly inform the Company of any change to information that it has provided to the Company pursuant to clause 19(1)(b); and
 - e) The Company is not obliged to give any notice or provide copies of any documents under the PPSA (including notice of a verification statement) unless the notice is required by law and cannot be excluded.
- (2) The Purchaser agrees to perfect and maintain any security interests under the PPSA, including purchase money security interests if failure to do so could materially adversely affect (i) the Company's business; or (ii) in the opinion of the Company, acting reasonably, the Company's security position under this agreement.

20. CONFIDENTIALITY

20.1 Confidential Information means all information of whatsoever kind or nature including:-

- (1) all information contained in a document, or in any software that is the property of the Company and which by its nature is confidential to the Company or its business; or
- (2) all documents or software that is marked or contained in a package or envelope that is marked "Strictly Confidential", "Confidential", "Secret" or "Not to be Disclosed" or otherwise uses words which indicate that the Company regards the information as being of a confidential nature; or
- (3) all oral, written, recorded information and/or databases concerning the Company, its business and/or any Intellectual Property; or
- (4) all Products contained in this agreement that are independently developed or improved by the Company from time to time; or
- (5) all other information or know how in any form concerning the Company; or
- (6) the terms of this agreement and the negotiations relating to it,
- (7) but does not include information that:-
 - (a) is or becomes generally available to the public other than as a result of a disclosure directly or indirectly by the Purchaser or its representatives;
 - (b) was independently acquired or developed by the Purchaser or its representatives without breach of this agreement;
 - (c) becomes available to the Purchaser or its representatives on a non-confidential basis from a person (other than the Purchaser or its directors, officers, employees, agents or advisors) who, to the Purchaser's knowledge, is not and was not bound by a confidentiality agreement with the Purchaser, or is not and was not otherwise prohibited from transmitting the information to the Purchaser or its representatives.

- 20.2 Use of Confidential Information: The Purchaser must use the Confidential Information solely for the purpose for which it was disclosed, and for no other purpose whatsoever.
- 20.3 Non-Disclosure of Confidential Information: The Purchaser must keep the Confidential Information of the Company secret and confidential, and must not disclose or otherwise make known to any person any part of the Confidential Information without the prior written consent of the Company.
- 20.4 Disclosure to directors and employees: The Purchaser may disclose the Confidential Information to such of its directors and employees as is necessary for the purposes of this Agreement.