

## TERMS AND CONDITIONS OF SALE

Avery Dennison (Kenya) Private 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 Sale exclusively notwithstanding any inconsistencies which may be introduced in the order of acceptance unless the same are expressly agreed to by the Company in writing and notwithstanding that the Company may fulfill any such order.
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 QUOTATION Unless previously withdrawn, any quotation is valid for thirty (30) days, or such other period as is stated therein.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 it is an invitation to submit an order and no contractual relationship arises therefrom or contract comes into existence until an order has been accepted by the Company.
3. ORDERS An order must be in writing, bear a reference number and be signed by the duly authorised officer of the purchaser. Orders are subject to acceptance by the Company and the Company reserves the right to accept any order in whole or in part or to refuse any order for any reason whatsoever and without liability or claim thereon.
4. PRICE Unless otherwise expressly agreed in writing, the ex-factory price of the company's products shall be the Company's standard list price as of the date of delivery. Where no such list price exists, the price shall be that quoted by the Company. The Company reserves the right to change prices without notice. Prices are net to the Company and are exclusive of any excise, sales tax, entry tax, octroi, customs, and any other local duties, taxes, slitting and other service charges, insurance and freight 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 fulfillment or the order if such variance does not exceed 10%.
5. CANCELLATION Orders cannot be cancelled except upon terms which will fully compensate the Company against any and all costs, losses, damages or expenses as a consequence of such cancellation.
6. PAYMENT The terms of payment as mentioned in the invoice are due payable starting from the invoice date. Amounts not paid by or within due date as mentioned in the invoice will be subject to a late payment charge of 24% per annum 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. Failure of the Purchaser to pay any of the Company's invoice by its due date makes all subsequent invoices immediately due and payable irrespective of their terms and the Company reserves the right to withhold subsequent deliveries of the products to the purchaser until the account is fully settled by the purchaser. The Purchaser shall indemnify the Company for any costs and expenses including collection fees and legal fees for which the Company may become liable or incur in the collection / recovery of payment of overdue accounts. The parties agree that the late payment charge payable under this clause represents a genuine pre-estimate of the loss suffered by the Company as a result of the Purchaser's default in making payment when due.
7. DELIVERY
  - 7.1 The Company will deliver the Products Ex-Works Company's plant unless otherwise agreed in writing.
  - 7.2 All delivery dates quoted are estimates only and the Company shall not be liable for failure to deliver or any delay in delivery or for short delivery arising from any Force Majeure event. 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 or short delivery.
  - 7.3 The Company reserves the right to delivery by installment and each installment shall be deemed to be sold under a separate contract. Failure of the Company to deliver an installment shall not entitle the Purchaser to rescind or repudiate the balance of any contract.
  - 7.4 The title to the product and the risk of loss or damage of the products shall pass to the Purchaser upon the products leaving the company's plant without prejudice to the rights that the Company shall have under the Sale of Goods Act, Chapter 31 Laws of Kenya and other applicable Laws.
  - 7.5 Where products are delivered in accordance with 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.
8. WARRANTY Information concerning the company's products are based upon tests believed to be reliable but do not constitute a guarantee or warranty. Products are provided on the basis that any Purchaser has independently determined the fitness and suitability of the Products for its purpose. 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's standards, the Company shall within a reasonable period correct such defects by 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 determines that replacement is not commercially practical, the Company may issue a credit in favor of the Purchase in an amount not to exceed the purchase price of the Products. Any implied or statutory warranty including but not limited to merchantability, fitness for a particular purpose or other warranty of quality or otherwise, whether express or implied by law is hereby excluded to the extent permitted by law. In no event shall the Company be liable for any incidental or consequential damages including, but not limited to, loss or profit, loss or use of production or loss of capital. The remedies of Purchase set forth herein are exclusive, and the total liability of the Company arising out of any contract or from the manufacture, sale, delivery, resale, installation or use of any products shall in any event not exceed the purchase price of the products upon which liability is based.
9. RETURNS Products sold by the Company are returnable only in accordance with the warranty provisions hereof. Before returning any product, the Purchaser must obtain the Company's written material return authorization and instructions.
10. ASSIGNMENT Any assignment of the agreement, an order or of any rights hereunder in any manner, in whole or in part, without the prior written consent of the Company shall be void.
11. 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 and supersede any prior or collateral agreement or understanding between the parties relating to the subject matter hereof (including those that may be contained in the Purchaser's order, which are inconsistent with the terms and conditions in these Terms and Conditions of Sale). The Purchaser acknowledges that the Company has not made any representations 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 provision shall nevertheless remain in full force and effect.
12. 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 authorized 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.
13. 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.
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, bandhs, riot, civil commotion, insurrection, terrorists attacks, 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 supplier's products or marketing activities or any other cause or contingency beyond the Company's control.
15. 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 law of Kenya.