

## Conditions of Purchase

The following conditions of purchase apply for the company listed below:

TSL-ESCHA GmbH, Elberfelder Str. 1, 58553 Halver

(in the following „TSL-ESCHA“)

### § 1 Scope of the Conditions of Purchase

1. The following conditions of purchase shall apply for all business relations between TSL-ESCHA and their business partners and suppliers, where the supplier is an entrepreneur in the sense of § 14 BGB (German Civil Code).
2. Any other provisions and specifically conditions of sale, delivery and payment of the business partner or supplier shall only be applicable with a written consent by TSL-ESCHA. This approval requirement shall apply in every case, for example also if we unreservedly accept a delivery with full knowledge of the general terms and conditions of the seller.
3. The supplier shall recognize these conditions as agreed with the first delivery based on these conditions, and for all later contractual conditions in their relevantly current form.
4. Any framework contracts agreed between the parties shall take precedence. These agreements shall be supplemented by these conditions of purchase unless specifically agreed otherwise. Contract amendments, supplements, or verbal sub-agreements shall be valid only if approved by TSL-ESCHA in writing.

### § 2 Conclusion of the Contract

1. Orders shall only be deemed valid in written form. An order submitted via fax or email shall suffice as written form. The content of the order shall be valid exclusively. The seller shall be obligated to notify us of any obvious errors (e.g. typing mistakes or miscalculations) and omissions in the order and order documents for correction and completion prior to its acceptance; failure to do so shall result in the contract not being concluded.
2. The supplier shall be obligated to confirm the order immediately, or latest within 3 days of the order date in conjunction with a delivery date and valid prices in writing, or by unreservedly fulfilling the order by dispatching the goods, provided the delivery period

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matches the delivery period specified in the order (acceptance period). TSL-ESCHA shall be entitled to cancel the order(s), once the acceptance period has elapsed. Claims on the part of the supplier based on effectively exercised cancellations are excepted.

3. TSL-ESCHA reserves the right to withdraw from the order in case of late deliveries.
4. TSL-ESCHA shall be entitled to demand changes in the object of delivery after the conclusion of the contract, where these changes are within reason for the supplier.
5. The supplier shall notify TSL-ESCHA if an order requires the awarding of sub-contracts. TSL-ESCHA reserves the right to object to the awarding of sub-contracts for important reasons.

### **§ 3 Prices, Payment**

1. The price stated in the order shall be deemed binding.
2. Agreed prices are fixed prices, and include all costs for packaging and for transport to the designated receiving or utilizing location. The prices stated are net prices. Where an order does not state prices, the prices demanded by the supplier shall be made available by the supplier beforehand for approval by TSL-ESCHA.
3. Invoices shall be submitted by post with all relevant information and a separate position for the VAT amount, where an electronic invoice submission was not agreed.
4. TSL-ESCHA shall make payment within 14 days of the receipt of the goods and invoice with a 3% discount, or net within 30 days.
5. TSL-ESCHA shall not be liable for late payment interest. The seller's right to claim late payment interest shall remain unaffected.
6. In case of an early delivery acceptance, the payment terms of the originally agreed delivery date shall remain unchanged, unless TSL-ESCHA has requested an early delivery.
7. TSL-ESCHA shall be entitled to withhold payment or part-payment for incomplete or incorrect deliveries until the correct fulfilment of the contract. The supplier shall only be

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entitled to withhold or set off against TSL-ESCHA claims if we have acknowledged such claims or if these claims are or established to be final and absolute or ready for decision.

#### **§ 4 Delivery Dates & Terms/Delivery Acceptance**

1. The agreed delivery dates and terms are legally binding. The receiving of goods at TSL-ESCHA or at an agreed – in case of doubt to be specified by TSL-ESCHA - fulfilment location shall be deemed fulfilment of the contract.
2. The supplier shall be obligated to notify TSL-ESCHA immediately in writing, should circumstances arise or come to his attention, which will result in an inability to comply with agreed delivery dates.
3. Where the supplier does not comply with delivery dates or terms for reasons within his area of risk, then TSL-ESCHA shall be entitled to withdraw from the contract and/or claim compensation for damages following a notice of default or extension of the deadline. TSL-ESCHA furthermore reserves the right to demand a penalty for breach of contract of 0.5% of the net order value per week or part thereof, at most 5% of the total net value of the order. The contractual penalty paid will be credited to any damages claim.
4. Where the supplier fails to comply with delivery dates or terms for reasons that are provably beyond his control, the parties to the contract shall make good faith efforts to adapt the contract to the changed conditions.
5. In such a case, TSL-ESCHA shall be exempt from the obligation to accept the delivery and shall be entitled to withdraw from the contract, where the delivery due to its delay will no longer be economically viable for TSL-ESCHA.
6. All circumstances of force majeure, the occurrence of unforeseeable, inevitable and/or extraordinary events and operational disruptions, strikes and labor disputes of any type for which TSL-ESCHA cannot be held responsible, shall release TSL-ESCHA from the obligation of acceptance.
7. TSL-ESCHA is entitled to withdraw from the contract if an event described in section 6 lasts longer than one month. Should TSL-ESCHA continue to be interested in a delivery, then



the contractual obligations shall be extended accordingly. The supplier cannot derive a claim for compensation from such circumstances.

8. Partial deliveries shall only be permitted upon prior agreement.
9. A reservation of title is not agreed.

## **§ 5 Blanket Orders & Delivery Schedules**

1. Order releases within the framework of order and delivery schedule planning become binding if the supplier does not object within two working days of receipt thereof.
2. Unless agreed otherwise, TSL-ESCHA shall be entitled to determine the times for the delivery schedule and the quantity of the relevantly called delivery in accordance with their own manufacturing and business processes. Notwithstanding, the supplier shall not be entitled to delivering the remainder of the blanket orders, nor have the right to invoice pending quantities unbidden.

## **§ 6 Transfer of Risk/Packaging/Insurance**

1. Delivery shall be in accordance with Incoterms 2010 DDP to the contractually agreed receiving or utilization location.
2. The supplier shall package the delivery items in a manner as to prevent transport damage.

## **§ 7 Notice of Defects**

1. TSL-ESCHA shall inspect the delivered products upon receipt or latest within two weeks for visible transport damage of the exterior, and whether the products delivered comply with the ordered quantity and type.
2. Should TSL-ESCHA detect a hidden or other defect, which was not apparent at the time of the incoming good inspection described in section 1, TSL-ESCHA shall notify the supplier of the defect immediately, or no later than two weeks after discovery.



3. TSL-ESCHA shall not be obligated to conduct further inspections and provide further notifications other than those afore-mentioned. The above inspections and notice of defects shall satisfy TSL-ESCHA's obligations in accordance with § 377 HGB (German Commercial Code).

## **§ 8 Guarantee/Warranty**

1. The supplier guarantees that all deliveries/services comply with the state of technology, relevant national, European and international legal provisions, and the regulations and guidelines issued by public authorities, professional bodies and trade associations, and are suitable for the purpose intended by the order. The warranty period for deficiencies of material is three years, insofar as no statutory provisions provide longer periods. The warranty period for deficiencies in title is five years, insofar as no statutory provisions provide longer periods. The supplier specifically guarantees to comply with the requirements of the directives RoHS (2002/95/EC) and REACH (1907/2006/EC). Where a derogation exists for the directive, its explicit content must be communicated to TSL-Escha in every case. Quality certificates (where available) shall be supplied. The contractor guarantees the viability of the relevant design in accordance with recognised rules of technology. Should the products delivered not fulfil the relevantly provided warranties, then the supplier shall be liable for any damages including consequential damages arising from this non-fulfilment. TSL-Escha shall be entitled to request that the supplier present certificates of inspection for the delivery items free of charge.
2. The warranty period begins to run with the transfer of risk. Where goods were ordered by TSL-Escha for the purpose of immediate resale or installation, the warranty period shall commence with the time of delivery to the customer or the commissioning of the products by the end consumer.
3. Recourse rights which TSL-ESCHA may have against the supplier are unaffected where warranty claims are made by a consumer against his contractual partner for a refund or reduction of the purchase price. Where that is the case, the provisions of the Consumer Goods Purchase Act in accordance with §§ 478, 479 BGB (German Civil Code) shall apply.
4. The supplier shall be obligated to provide remedial measures if defects in the delivery come to light during the warranty period; these measures shall be, based on the decision of TSL-



ESCHA, the repair or supplementary delivery of goods free from faults. TSL-ESCHA's right to claim for damages or reimbursement of fruitless expenses shall remain unaffected. All costs incurred for repeat performance, delivery of a replacement or repair (labor/material/transport/recall/legal expenses, etc.) shall be the responsibility of the supplier.

5. In case of replacement deliveries or other actions required to remedy defects, the statute of limitation shall recommence on the date of complete fulfilment of claims or redelivery.
6. Where TSL-ESCHA's entitlement to supplementary fulfilment is not fulfilled within reasonable deadlines, the supplementary fulfilment shall be deemed a failure, and TSL-ESCHA shall be entitled to undertake remedial measures at the cost and risk of the supplier, or have remedial measures undertaken by a third party without affecting the liability for material damage of the supplier.

## **§ 9 Product Liability**

1. The supplier shall be obligated to compensate TSL-ESCHA for damages incurred due to a defect of the delivery object. Should a claim be brought against TSL-ESCHA under the provisions of domestic or foreign product liability regulations due to a defect in the goods delivered by the supplier, the supplier shall be obligated to indemnify TSL-ESCHA of any such claims based on defects in the delivered products. The supplier's duty to indemnify shall also include the costs of reasonable legal defense, recall, installation and removal costs, as well as administration costs and general expenses incurred by TSL-ESCHA for the handling of the claim in addition to compensation for third parties.
2. The supplier shall be obligated to take out product liability insurance at his expense and to an appropriate scope, which shall - if and to the extent that such risk is coverable - include the recall risk, and provide TSL-ESCHA with relevant documentation as proof.

## **§ 10 Confidentiality/Prototypes/Tools/Data Protection**

1. The supplier shall treat the contract conclusion with confidentiality. Any business-related or technical details, as well as business processes, to which the supplier becomes privy within the scope of his business relationship with TSL-ESCHA, shall be regarded as trade secrets

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unless their circumstances have otherwise been made public. The obligation to confidentiality, which extends beyond the completion of the contract, shall be imposed by the supplier on his employees, sub-contractors, or other representatives to the same extent.

2. Items, and specifically tools, dies, devices, prototypes, matrices, templates, patterns, and other manufacturing implements provided to the supplier by TSL-ESCHA shall remain the sole property of TSL-ESCHA. Where the aforementioned items are manufactured for TSL-ESCHA, then these items shall be deemed the property of TSL-ESCHA at the time of their creation or manufacture, whereby the supplier shall act as ownership intermediary. The same shall apply for drawings, analysis methods, and for any disclosed procedural methods.
3. The aforementioned items, documents, and procedures must only be made available to third party with previous permission by TSL-ESCHA in writing. Prerequisite for a permission on the part of TSL-ESCHA is a notification of the intended use and the recipient.
4. The supplier is obligated to utilize any tools that are the property of TSL-ESCHA solely for the manufacture of goods requested by TSL-ESCHA, and to insure these tools at his own cost against, fire and water damage, as well as theft. Any maintenance and inspection works required for these tools shall be the responsibility of the supplier.
5. The supplier is aware of the fact that TSL-ESCHA will store his personal information on data storage media.
6. The supplier shall store and secure all necessary data for the fulfilment of the contract(s) electronically on his own IT system. Transmitted data shall be handled in accordance with the Federal Data Protection Act (BDSG) and in compliance with relevant EU law.
7. Upon written request by TSL-ESCHA, the supplier shall be obligated to return or provide proof of destruction of any and all information, documents, or means of production immediately and free of charge to TSL-ESCHA.



## **§ 11 Property Rights**

1. The supplier shall be liable for damages resulting from any breach of property rights and/or rights applications during the contractually agreed utilization of the delivery items.
2. On request, the supplier shall indemnify TSL-ESCHA or clients of TSL-ESCHA from any claims by third parties with regards to the utilization of relevant property rights. The supplier's duty to indemnify shall apply to all expenses which TSL-ESCHA or clients of TSL-ESCHA incur from or in connection with claims by third parties. Such costs include in particular the cost of pursuing legal remedies and exercising legal rights as well as all costs incurred in procuring a replacement.
3. The supplier has no obligation to indemnify if the supplied goods were manufactured in accordance with drawings, prototypes, or other similar means of descriptions or information provided by TSL-ESCHA in ignorance of third-party property rights. This shall not apply in case of grossly negligent ignorance on the part of the supplier. Insofar as the supplier is not liable as described in section 3, TSL-ESCHA shall indemnify the supplier from third party claims.
4. The supplier shall notify TSL-ESCHA of his use of published, own unpublished or licensed third party property rights and/or property right submissions latest before the conclusion of the contract negotiations in writing. The Supplier shall not have any additional claim for compensation due to the utilization of own or third party property rights or property right submissions for items delivered.
5. The period of limitation for the claims against the supplier outlined in § 10 is 10 years from the date of conclusion of the contract.

## **§ 12 Code of Conduct**

TSL-ESCHA expects the supplier to comply with the following basic principles:

1. The supplier shall respect and protect all regulations in force to protect human rights as a fundamental and general prerequisite. This shall specifically include that the supplier does not and will not use forced labor or child labor. The supplier shall comply with the



regulations laid out in ILO Convention 138 on the minimum age for the employment of minors.

2. The supplier shall not discriminate on the basis of ethnicity or nationality, race, gender, religion, ideology, age, disability, sexual orientation, or any other personal characteristic protected by law.
3. The supplier shall act responsibly with regards to environmental protection, and shall comply with all legal requirements pertaining to the environment and sustainability. He shall utilize natural resources with consideration and endeavor to minimize pollution.
4. The supplier shall ensure adequate remuneration of his employees, which will at least reflect legally guaranteed minimum wages or the minimum wage guaranteed by national collective agreement.

### **§ 13 Safety Provisions**

1. The supplier shall comply with the recognized rules of technology, and safety regulations, and technical data/limit values reflecting or surpassing the current standard of technology for all his deliveries. He shall pay particular attention to the compliance with DIN, EN, ISO, VDE, and EC standards (e.g. the EC Machine Directive) and other relevant regulatory documentation.
2. The supplier commits to utilizing only those materials, which comply with currently applicable statutory safety requirements and regulations, specifically in terms of restricted, toxic, and harmful materials. The same shall apply for all environmental regulations as well as regulations regarding electricity and electromagnetic fields.
3. TSL-ESCHA shall be entitled to withdraw from the contract where products of the supplier do not comply with the requirements set out in sections 1 and 2. Any further claims for damages shall be unaffected by above stipulation.
4. TSL-ESCHA shall be notified of any intended modifications to the delivery object. Modifications shall require a prior written approval by TSL-ESCHA.



**§ 14 Quality & Documentation**

1. The supplier commits to maintaining a DIN EN ISO 9000ff. quality management system for the duration of his entire business relationship with TSL-ESCHA, and to monitor compliance in periodic internal audits, and initiate relevant action immediately, where deviations are detected.
2. TSL-ESCHA shall be entitled to test the supplier's quality assurance efforts at any time with prior notice. The supplier shall allow TSL-ESCHA access to certification and auditing reports, as well as to results of internal audits.
3. The supplier shall notify TSL-ESCHA of any product changes individually and in writing.
4. The scope of delivery shall include - without further charge - the product-specific and/or technical documentation, declaration of conformity, as well as any other documents and certifications required for the ordered item or its use, as well as any required labelling on its parts (brands, manufacturer's mark, order ID, item number, serial number, etc.), and/or their packaging.
5. The costs incurred for obtaining declarations of conformity are the responsibility of the supplier. Declarations of conformity are to be submitted to TSL-ESCHA immediately in a German language version.
6. Notwithstanding any certifications, the supplier shall be obligated to continuously verify the quality of the delivery items. The supplier shall notify TSL-ESCHA of any improvements immediately. This shall apply specifically in the case of safety-relevant components. The supplier is obligated to perform design verifications in terms of feasibility and plausibility. He shall notify TSL-ESCHA immediately of any notable errors in the specifications and any foreseeable complications.
7. a) Where minimum and maximum parameter values are provided as part of an order, the specified maximum values must not be surpassed in any area of the workpiece or product, and the indicated minimum values must not be undercut in any case or any area.  
b) Compliance is to be verified and documented in appropriate test and measuring procedures.



- c) TSL-ESCHA shall be entitled to demand a publication of the results of these tests at any time and at no further cost in written form.
8. The supplier shall be obligated to perform and document tests for safety-relevant parts. He shall specifically be obligated to document in separate documentation, when, with what procedure, and by whom the delivery items have been tested for these features. The same shall apply for test results. All safety-relevant parts shall be subject to testing, which are relevantly marked in the product-specific or technical documents, or which are marked as safety-relevant based on a separate agreement, or the safety-relevance of which is apparent. Test documentation shall be archived for a minimum period of 10 years, and shall be made available to TSL-ESCHA free of charge on request. The supplier shall apply the same obligations to all upstream suppliers in written contracts.
9. Should any authorities tasked with the monitoring of product safety, production identification, emissions standards, etc. request TSL-ESCHA to provide access to the production workflow and test documentation, the supplier shall agree to allow TSL-ESCHA full access rights to his facility and provide reasonable fact-finding support.

## **§ 15 Auditing**

1. TSL-ESCHA shall be entitled to initiate their own auditing of the supplier, or commission an auditor of their choice to do so. This audit shall include a verification of the business and quality assurance system of the supplier, with a subsequent assessment. The findings shall be used as basis for the awarding of future orders and for the internal assessment of the supplier (supplier rating) by TSL-ESCHA.
2. TSL-ESCHA shall be entitled to perform - with advance notice - inspections of the supplier`s ongoing business operations to monitor quality assurance measures.
3. TSL-ESCHA shall furthermore be entitled to inspect the supplier's records, where appropriate and rightful interest can be demonstrated. An appropriate and rightful interest shall be warranted in cases where the inspection may provide information that will allow an assessment of the necessity and scope of a product recall.



**§ 16 General Provisions**

1. TSL-ESCHA shall be entitled to withdraw from the non-performed part of the contract, should the supplier suspend his services, or if insolvency proceedings with regard to his assets or for judicial or extra-judicial settlement proceedings are initiated.
2. The ineffectiveness of individual provisions shall not affect the general validity of these Conditions of Purchase. Both parties undertake to replace invalid provisions with provisions that as closely as possible reflect the intent of the invalid provisions. The same shall apply in case of an omission.
3. The laws of the Federal Republic of Germany shall apply. The contractual, procedural, and judicial language is German.
4. The applicability of the UN Convention on the International Sale of Goods (CSIG) is excluded.
5. The place of performance and jurisdiction shall be the domicile of TSL-ESCHA. TSL-ESCHA shall, however, be entitled to sue the supplier at his domicile or at the location of service provision.

Status August 2017

