

Terms of Business and Conditions of Sale

1. These are the Terms of Business and Conditions of Sale governing the sale of the Seller's goods (the "**Conditions**"). The Conditions shall apply to the exclusion of any other terms that the Buyer seeks to impose or incorporate, or which are implied by trade, custom, practice or course of dealing.
2. The Buyer's order for the goods (the "**Order**") constitutes an offer by the Buyer to purchase the goods in accordance with these Conditions. The Buyer is responsible for ensuring that the terms of the Order and any applicable specification submitted by the Buyer pursuant to the Order are complete and accurate. The Order shall not be deemed to be accepted until the Seller issues a written acceptance of the Order or accepts the Order by delivering the ordered goods.
3. The Conditions only apply vis-à-vis entrepreneurs (as defined in sec. 14 of the German Civil Code), legal entities under public law, or special governmental estates. The Seller is not offering or selling any goods to consumers (as defined in sec. 13 of the German Civil Code).
4. A quotation for the goods given by the Seller shall not constitute an offer. A quotation shall only be valid for a period of 30 days from the date of issuance and, unless agreed otherwise, shall lapse after such period.
5. Prices for goods shall be at the price quoted by the Seller and shall be ex works and exclusive of any statutory VAT. Prices of any goods which are shipped more than thirty (30) days after the date of Seller's acceptance of the Order may be increased by Seller by written notice to the Buyer issued at least ten (10) days prior to the effective date of increase. Such increase shall be applicable to goods shipped after its effective date unless on being notified of the price increase and prior to the effective date Buyer cancels its Order of the undelivered balance of goods to which the increased price applies. Seller shall not exercise its right to increase prices when the delay in delivering the shipment is as a result of its fault or the fault of its agents or representatives, or where the parties agree otherwise in writing.
6. Prices are due and payable net thirty (30) days from the date of the invoice or such other terms as may be specifically quoted to the Buyer in writing prior to or together with the Seller's acceptance of the Order. From the due date Seller may demand default interests in the amount of 9% above the base interest rate p.a. Seller reserves the right to claim further damages caused by any payment delay. In the event that Buyer should fail to make timely payment, or should Seller have reasonable indications that Buyer's financial responsibility is inadequate, Seller may in its sole discretion, either demand payment of all outstanding invoice balances whether due or not and/or cancel all outstanding Orders and decline to make further deliveries except upon the receipt of cash or satisfactory security. The setting off or withholding of payment by Buyer in respect of any claim shall not be allowed unless Buyer's counterclaim is undisputed or has been recognized by a court of law.
7. Buyer assumes all liability for as well as the risk of loss or damage of the shipped goods when the goods leave the property of the Seller. In the event that goods are damaged by a third party when shipped to the Buyer, when shipped to an agent of the Buyer or when shipped to a fabricator for further processing on behalf of the Buyer, the Buyer assumes all responsibility for collecting compensation from a third party shipping company, third party warehouse acting on behalf of the Buyer or any third party involved in a logistical capacity for the Buyer. The Seller assumes no liability for any goods that were transferred to a third party for shipping. In case of a default in acceptance or other breach of Buyer's duty to cooperate Seller shall be entitled to claim all damages caused thereby including related expenses.
8. No liability shall result from delay in performance or non-performance, directly or indirectly caused by factors such as but not limited to fire, explosion, accident, flood, labor trouble or shortage, war act or authorized by any government inability to obtain suitable material, equipment, power or transportation or act of God arising from contingencies, happenings, or causes beyond the control of the party affected ("**Force Majeure Event**"). Quantities so affected by a Force Majeure Event may be eliminated or postponed by the Seller without liability but the rights and duties of each party shall otherwise remain unaffected.
9. Goods not paid for in full may not be assigned or pledged to third parties.
10. Orders are not assignable or transferable by Buyer, in whole or part, except with the written consent of Seller.
11. Notwithstanding delivery, the goods sold hereunder shall remain the absolute property of Seller until payment of all outstanding amounts invoiced by Seller to Buyer in respect of such Order or an ongoing business relationship has been made. Until such time as title has passed to Buyer, Buyer agrees to (i) store such goods separately from all other goods of the Buyer in such a way that they are readily identifiable as the property of the Seller; (ii) not remove, deface or obscure any identifying mark or packaging relating to the goods, and (iii) maintain the goods in satisfactory condition and keep them insured against all risks for their full price from the date of delivery. Until such time as title has passed to Buyer, Seller shall be entitled in case of a breach of contract by the Buyer (including, without limitation, default in payment) to repossess its goods. For this, Seller may

immediately after giving notice of its intention to repossess its goods, enter upon the premises of the Buyer with such transport and personnel as may be necessary to repossess any goods to which it has retained title. If and to the extent that the realizable value of the securities exceeds the outstanding amounts invoiced by Seller to Buyer by more than 10%, the Seller shall, upon the Buyer's written request, release, at its own choice, securities in the respective amount. Nothing in this Condition shall confer any right upon Buyer to return goods, sold hereunder or to refuse or delay payment thereof, unless otherwise agreed between the parties.

12. Statements, technical information and recommendations contained in brochures, technical briefs and literature published by Seller are based on Seller's general experience and tests which Seller believes to be reliable but the accuracy and/or completeness thereof is not guaranteed. They shall not form part of the Conditions nor have any contractual form.
13. Upon request, Seller shall endeavor to furnish technical advice or assistance as it is available in reference to the use of the goods by the Buyer; it is expressly understood, however, that all such technical advice or assistance is given and accepted at the Buyer's risk and Seller assumes no obligation or liability for the advice or assistance given or results obtained.
14. Seller shall not be liable for any loss or damage direct or consequential, arising out of the use of or the inability to use the product.
15. Any warranty claim of Buyer requires that the Buyer has fully complied with its inspection and objection obligations pursuant to sec. 377 of the German Commercial Code (HGB). Obvious deficiencies or damages shall be reported promptly and in any event within ten (10) days of delivery. Hidden defects shall be reported to Seller within ten (10) days of discovery thereof. Any warranty claim shall be time-barred 12 months after passage of risk. In case of a defect, Seller shall have the option, as its sole discretion, to render subsequent performance either by repairing the defective good or by replacing it with a good that is free of defects. Seller's right to refuse subsequent performance in accordance with applicable laws remains unaffected. If subsequent performance has failed or is dispensable under applicable laws, Buyer may reduce the purchase price or withdraw from the contract. A withdrawal shall however not be possible where the defect is only insignificant.
16. Buyer assumes all risks and liability for any results obtained by the use of the goods whether used singly or in combination with other products.
17. Materials ordered to specifications required by the Buyer should state specification requirements in full in writing in the Order. Actual test reports or certifications to specifications will be supplied on request at additional cost.
18. To the extent that the goods are to be manufactured in accordance with a specification supplied by the Buyer, the Buyer shall indemnify the Seller against all liabilities, costs, expenses, damages and losses (including any direct, indirect or consequential losses, loss of profit, loss of reputation and all interest, penalties and legal and other reasonable professional costs and expenses) suffered or incurred by the Seller in connection with any claim made against the Seller for actual or alleged infringement of a third party's intellectual property rights arising out of or in connection with the Seller's use of the specification. This provision shall survive termination of the Conditions.
19. Except as provided by law no claim of any kind whether as to goods delivered or for non-delivery of goods, shall be greater in amount than the purchase price of the goods in respect of which such damages are claimed and Seller accepts no liability for any indirect or consequential loss of profit. Nothing in these Conditions shall limit Seller's liability resulting under the Product Liability Act or resulting from death or personal injury or fraud or fraudulent misrepresentation, gross negligence or willful misconduct committed by Seller or any of its representatives or agents. The same shall apply with regard to any negligent or willful violation of core contractual obligations of the Seller. Core contractual obligations are obligations which have to be fulfilled in order to meet the objectives of the agreement. Any other liability of Seller not expressly mentioned above shall be excluded.
20. Terms of EXW Seller's plant.
21. The Seller may deliver the goods by instalments, which shall be invoiced and paid for separately. Any delay in delivery or defect in an instalment shall not entitle the Seller to cancel any other instalment.
22. Payment may be made by wire transfer, Irrevocable Letter of Credit, sight draft or subject to satisfactory credit arrangements and prior agreement. Taconic reserves the right to withhold dispatches until accounts are settled to its satisfaction.
23. No one other than Buyer and Seller shall have any right to enforce any of these Conditions.
24. These Conditions and any dispute or claim arising out of or in connection therewith, shall be governed by and construed in accordance with German law under exclusion of international private law and the United Nations Convention on Contracts for the International Sale of Goods. Each of Buyer and Seller irrevocably agree that the courts of Berlin shall have the exclusive jurisdiction to settle any dispute or claim arising out of or in connection with these Conditions.