

General Terms and Conditions for Sales and Services

V 4.0 as of 17.07.2017

I. Applicability of Terms and Conditions

1. Subject to deviating agreements in particular cases the conclusion of contracts with us is governed exclusively by the following Terms and Conditions; when placing an order, the customer thereby accepts our Terms and Conditions. Our quotations, sales, deliveries and services are exclusively based on these General Terms and Conditions. These General Terms and Conditions deem to be accepted at the latest upon receipt of our products or services. Any differing General Terms and Conditions of the contractual partners are opposed. This shall also apply if the business partner refers to his General Terms and Conditions or purchase conditions by means of a counter-confirmation or in any other way. Adverse or deviating terms or conditions of a Customer will only have binding effect on us if we have expressly confirmed them; our confirmation must be in writing. Our Terms and Conditions also apply when we provide our services in the knowledge of a Customer's adverse or deviating terms or conditions.
2. These general Terms and Conditions are applicable to all our quotations, sales, deliveries and services and to all of the duties that might result from any relationship with the client under the law of obligations. For entrepreneurs (*Unternehmer*) or merchants, legal entities incorporated under public law including funds under public law our Terms and Conditions apply also for all future business relations.

II. Conclusion of Contract / Amendments of Contract

1. A contract shall only be deemed concluded with us when the Customer either accepts our non-binding offer without reservation or when he receives our written confirmation of his order or when we commence with the delivery of goods/rendering of services. In case we issue a written confirmation following the Customer's order, this confirmation will define the subject and the scope of the contract, unless expressly agreed upon otherwise.
2. Amendments, collateral agreements and additional provisions as well as any respective stipulation of condition (*Beschaffensvereinbarung*) or the issuance of guarantees shall require an explicit agreement in order to become effective; this must be in writing to take effect.
3. The quotations and possible contract documents shall be treated confidential and may only be disclosed to persons in charge.

III. Execution of order

1. Unless expressly agreed upon otherwise the object of our sales and services need only be of such condition or have the technical characteristics etc. as expressly defined by the contract; our contractual obligation are guaranties in a legal sense only if we accept liability without fault or if we explicitly state them to be such guaranties; any guaranty must be made in writing to take effect. We reserve the right to make technical and design changes to the descriptions and specifications in our prospects, catalogues or similar sales documents and we may exchange products or parts of products against such of same or better technical standards; for the Customer, no rights will arise resulting from this conduct. Neither these descriptions nor such statements or any advertisements (also those made by the manufacturer) shall comprise a declaration of guaranty. Unless required by law we owe advice only if agreed to as a main contractual duty.
2. Unless expressly agreed upon, future improvements and developments of software (updates and upgrades) are not within the scope of delivery.
3. The Customer shall be obliged to give us all information necessary for the delivery of goods and/or rendering of services, and to do so in full. We are under no obligation to check the Customer's data, information or other services for completeness and correctness unless individual circumstances arise in particular cases, which give cause to do so, or we have contractually and expressly accepted such obligation. In case work is to be done at the Customer's place of business our personnel shall be provided with work places and equipment required in each particular case free of charge.
4. In case we have to do work outside our company premises, the Customer shall be obliged to take all necessary measures in order to comply with existing duties of care towards third parties (*Verkehrssicherungspflichten*) unless otherwise determined either by the nature of the business or by agreement with the Customer. We shall be entitled to refuse execution of the delivery of our goods and/or rendering of our services as long as the necessary measures have not been taken.
5. Notwithstanding our responsibility to carry out the duties contractually owed we may without reservation hire third parties for the fulfillment of the contract. If employees whose participation was agreed upon under the contract are unable to attend work due to reasons for which we are not responsible, we may substitute other suitable employees for them.

6. The acceptance and the implementation may be subject to a security deposit or a payment in advance.

IV. Customer's Duties in Case of Development, Production and Consulting Services

1. In development projects the Customer and we must closely co-operate in order to achieve the project's goals. The parties therefore herewith undertake to each take consideration of the other, to inform each other fully and without delay and to warn each other, as a precaution, of any risks while furthermore protecting each other from any disturbing influence including such from third parties.
2. The Customer undertakes it as a main contractual duty to ensure that all duties to participate in the performance and all his contributions agreed upon will be available in the necessary quality and in the time agreed upon or which is necessary to realize the project in time without further costs for us. As far as it is necessary for the project's success the Customer will especially provide own personnel in sufficient number and competent addressees for the complete duration of the project. In case the parties have stipulated to certain requirements for third-party systems operated by the Customer in the specifications or in another Section within the contract, the Customer is responsible for meeting of those requirements.
3. Should information or material provided by the Customer prove to be faulty, not complete, not clear or objectively non-executable, the Customer will make the necessary corrections and/or amendments immediately after we have informed him of such circumstances. The Customer or a third party by order of the Customer will immediately repair faults or functional deficiencies of machines or material provided by the Customer.

V. Copyright

1. All drawings, drafts, schemes (diagrams) respectively connection-schemes, cost estimates and other technical or commercial documents remain the property of PacTech. They may not be reproduced, copied or otherwise be disclosed to a third party or be used in order to manufacture products or its components. When there is no contract concluded after the offer was made, the documents must be returned to PacTech.

VI. Right of Use

1. Unless specifically and contractually agreed upon otherwise, we grant with the delivery of the results, which have been compiled within the scope of the customer order (i.e. concepts, construction drawings, software or similar results) software to the Customer a simple, which means a non-exclusive right to use the results. The right of use will be specified in the agreement specifically concluded in each individual case.
2. Independently from the scope of the right of use granted to the Customer we may in any case use ideas, concepts and know-how gained for purposes of further development and services, also for other customers.

VII. Terms und Deadlines

1. Any schedule or milestones for a project serve as an orientation within the course of action to be followed by the project. Deadlines shall be binding only if they have been explicitly agreed to as binding deadlines; this agreement must be done in writing to take effect. To the extent dates and deadlines have not been agreed upon as being binding, we shall not be in default until the Customer has unsuccessfully declared a further reminder with an adequate extension of deadline in writing for the delivery of goods/rendering of services we owe. In any case terms shall only commence after the Customer has fully complied with the requirements under his duty to co-operate and - in case it was so agreed - upon receipt of a payment on account. Subsequent changes of the order upon the Customer's request shall reasonably extend the time of delivery/time of performance.
2. In case the delivery of goods/rendering of services owed by us will be delayed for force majeure reasons (such as industrial disputes, disturbance of operations, transport impediments, lack of raw materials, governmental measures - including the incidence of such circumstances at the level of our suppliers - as well as the instance of not obtaining supplies oneself in due time), we shall be entitled to choose, at our discretion, to either fully or partially rescind the contract or postpone the delivery of goods/rendering of services for as long as the hindrance lasts. The Customer will be informed immediately of the non-availability of the services or goods. Should we rescind the contract, we will furthermore refund to the Customer any compensation already provided. Claims for damages shall be excluded.
3. In case the Customer fails to fulfill his duties to co-operate or to contribute to the project or to provide goods, be this in part or completely, the concurring deadlines will lose their binding effect and we will not be in delay. After an unsuccessful reminder, we shall be entitled

to claim any damages resulting therefrom, including any respective additional expenditure. In this case the risk of accidental loss or accidental deterioration of the delivery item shall be passed onto the Customer at the time the default of accepting delivery has occurred. If the Customer does not fulfil his duties to co-operate or to contribute to the project within the time of a further reminder with an adequate extension of deadline we are - in addition - entitled to terminate the contract with immediate effect. In this case we have the right, as a minimum, to compensation and payment according to Section 645 *Bürgerliches Gesetzbuch* (German Civil Code); our further claims remain unaffected. We have the same rights if, due to the delays, we cannot bring the project to an end within reasonable time or if we can do so only at substantially higher costs, i.e. because of other commitments.

4. If - for reasons we are responsible for - we are either in default or the performance of the delivery proves impossible as provided for in Section 275 paragraph 1 of the *Bürgerliches Gesetzbuch* (German Civil Code), or if we are able to refuse to perform according to Section 275 paragraph 2 and 3 of the *Bürgerliches Gesetzbuch*, we shall be held liable exclusively as provided for by the law, but subject to the limitations of liability set forth hereunder in Section XV, which will not be affected.

VIII. Risk of loss

1. Unless we specifically agree otherwise in an order confirmation we provide all of our goods and services "ex works".

The risk of accidental loss or accidental deterioration of the delivery item shall be passed over to the Customer with its dispatching, notwithstanding the case that we might have agreed to bear the delivery expenses or to take on additional obligations to be performed or we deliver in part. Section VII. 3. Sentence 3 hereof applies.

IX. Export

1. Articles, which are subject to an export/ re-export prohibition, will have a notice on the invoice or on the delivery note, as far as PacTech is under the obligation to his suppliers and/or to public authority to comply with the regulations. The customer shall not export the articles. The export prohibition also applies to the customer and has to be transferred to every further customer.

X. Acceptance

1. To the extent the formal acceptance of the Customer of our delivery of goods/rendering of services is required by law, the Customer shall be obliged thereto. Minor defects not seriously impairing the suitability of the delivery of goods/rendering of services with respect to the object of the contract, do not entitle the Customer to refuse the acceptance, regardless of his right to assert his legal claims of fault (*Mängelansprüche*).
2. The acceptance is considered granted if
 - The customer declares the delivered goods as accepted by signing the acceptance document, or
 - The Customer refuses the acceptance by way of breaching Section X. 1 hereinabove or refuses, in spite of having been requested in a timely manner to do so, to participate in the joint testing procedure for acceptance, or
 - The Customer does not declare the acceptance in writing immediately after joint testing although he was requested to do so within a period of 7 working days, unless the Customer specifically names the faults which cause his refusal of acceptance within this deadline, whereas we will point out to the Customer the relevance of his behavior at the beginning of the period, or
 - A period of 30 days after the delivery of the goods has past.
3. In case of limited severable performance, we have a right to acceptance in part.
4. Intellectual performances shall be considered accepted unless the Customer expresses reservations in writing within 30 days after having received such performances in written form and he specifically names the faults, whereas we will point out to the Customer the relevance of his behavior at the beginning of the period. In case of such reservation, we will review our performance. Should a reservation prove to be unjustified, the Customer must bear the costs incurred unless he acted in slight negligence (*leichte Fahrlässigkeit*).

XI. Prices and Payments

1. Only those prices shall be binding which we stipulate, to which - if mandatory - the respective VAT is to be added as prescribed by law. Unless otherwise agreed upon we are entitled to receive a refund for expenses.
2. Prices on the PacTech-pricelist or any other documentation are subject to alternation without notice. Unless stated different in the price-offer, the prices are stated in Euro, net and ex works. Costs for package, freight and insurance will be added to the price.
3. PacTech explicitly reserves the right to adjust the prices of the offers or order confirmations at any time due to risen production costs. Carriage free or duty-free prices do not oblige us not to submit duty and freight costs.
4. If a payment by hours or by days is agreed upon, the price lists will apply which are in force at the time of performance unless a different agreement has been stipulated to. There will be no increase in prices for performances, which will be delivered within four months of the closing of contract.
5. Our invoices are to be paid - without deduction of cash discount and free of additional expenses - in accordance with the agreed schedule of payment, otherwise within 30 working days after the date of the invoice. Should we - in individual cases - accept checks or

bills of exchange by virtue of express agreement, the acceptance does also not allow for a deduction of cash discount and is pending full discharge of the debt. Any respective discount charges shall be borne by the Customer. We shall only acknowledge payments by checks as satisfaction of the contractual terms if our account has been unreservedly credited to the amount of the respective sums. We do reserve the right to require adequate payments on account and advance payments.

6. In case of several debts due and owing by the Customer, we shall determine which debt is to be counted against payments made. The Customer can only claim rights of set-off if his counterclaims have been either determined by legal force (*res judicata*), or are undisputed or acknowledged by us in writing. The same shall apply in respect to claims of rights of retention.
7. Should we receive notice of circumstances after conclusion of the contract which seem to endanger our claims against the Customer because of the lack of the ability to perform, we shall be entitled to deliver due goods/render due services only against prepayment or provision of security and we shall also be entitled to rescind the contract after expiration of a deadline set for the prepayment or provision of security; Section VII. 3. of these Terms and Conditions shall apply accordingly.
8. In case of delay in payment the Customer owe interest for late payment as provided for by law, unless we prove higher damages.

XII. Technical Information, Danger and Preventive Measures

1. Any technical information or support from and through PacTech cannot constitute a warranty or a specification. Further, the customer declares to inform himself independently about all kinds of danger that can be caused by the product or transport or storage and about the preventive measures. The customer warrants that he passes on all the security related information that he is given from PacTech to his employees and all persons who transport or store or work with these products. PacTech is not liable for any kind of inappropriate handling, storage or transport of the products by the customer, employee or another third party.

XIII. Disturbance of the Operation

1. PacTech is not liable for damages arising out of Force Majeure, riots, wars, nature catastrophe or terrorism or other events for that PacTech is not responsible as strikes, lockouts, traffic interference or other disposition of high authority of the inland or abroad.

XIV. Warranties, Claims of Faults, Liability

1. The period for warranty claim is:
 - a) Business Unit Equipment Manufacturing **within** the European Union and USA
 - 12 months after final acceptance of the equipment, latest 30 days after delivery. Excluded from warranty are wear and tear parts and optical components. Delivery terms for replacement parts: **DDP** (Incoterms 2010)
 - b) Business Unit Equipment Manufacturing **outside of** the European Union and USA
 - 12 months after final acceptance of the equipment, latest 30 days after delivery. Excluded from warranty are wear and tear parts and optical components. Delivery terms for replacement parts: **CIF** (Incoterms 2010)
 - c) Business Unit Wafer Level Packaging Services
 - 12 months for subcontracting services in the area of „electroless plating“, „electroplating“, „solder bumping“ or other Wafer Level processes we offer except wafer backside metallization.
 - 3 months for subcontracting services on wafer backside metallization.
 - d) Business Unit Chemistry
 - The warranty claim varies for different chemistries depending on the specific shelf life for each chemistry. Authoritative is the label on the packaging.
 - Delivery terms for replacement chemistry: **CIF** (Incoterms 2010)
2. Should the goods we have delivered or the services we have rendered have any faults, the Customer shall give us an opportunity to subsequent performance within reasonable time unless such subsequent performance cannot be reasonably accepted by the Customer in an individual case, or special circumstances are given which, taking into consideration the interests of both parties, justify an immediate rescission of the contract. In any case, we shall be entitled to choose between remedying the defect or delivering goods / rendering services free of faults.
3. If standard products of third-party manufacturers are used for which we have only acted as intermediaries for a contract, the claims of the Customer shall be directed at the third-party manufacturer respectively concerned; this shall also apply in case of infringement of third-party intellectual property rights.
4. The Customer is under the obligation to check the goods delivered/services rendered for obvious faults, which an ordinary customer would observe without effort. Obvious faults like missing data components or materials for documentation as well as damages to data carriers, which may be noticed without effort, must be objected to in writing within one week after the delivery of goods/rendering of services. Faults, which become apparent later, but before the period of limitation for claims of fault (*Mängelansprüche*) ends, must be objected to in writing within a week after the Customer has noticed them. If the Customer does not fulfill his obligation to check goods and/or services or to object to faults, the

goods delivered/services rendered are deemed accepted also concerning the particular fault.

5. The Customer must make claims of fault (*Mängelansprüche*) in writing naming all faults noticed and the circumstances under which they showed. It is not considered a fault if a fault the Customer objected to cannot be reproduced. If the Customer manipulated the components, hard- or software in any way, he may make claims of fault (*Mängelansprüche*) only if he can prove that his manipulations were not the cause for the fault.
6. Should it become apparent that the fault the Customer has declared is indeed not given, and especially in cases in which a fault asserted cannot be reproduced, we shall be entitled to demand reasonable compensation for our effort and cost unless the Customer has acted in slight negligence (*leichte Fahrlässigkeit*).
7. Should the subsequent performance fail, should we refuse to perform it or should the Customer not be able to reasonably accept it, the Customer shall solely be entitled to the usual claims of faults (*Mängelansprüche*) the law provides for (rescission of the contract, diminishment of the agreed remuneration (*Minderung*), self-execution (*Selbstvornahme*), damage payments or compensation for frustrated expenses (*vergebliche Aufwendungen*)). Claims for damages shall be given solely as far as Section XV. of these Terms and Conditions provides for.
8. Should the fault consist in a merely slight deviation from the respective condition stipulated to (*vereinbarte Beschaffenheit*), we shall at our discretion only grant the Customer either the right to subsequent performance or to a reasonable diminishment of the agreed remuneration (*Minderung*). Should no condition have been stipulated to, the same shall apply to any deviation from the suitability for the use provided for in the agreement otherwise the usual suitability, provided that it is only an immaterial deviation. The suitability shall be assessed against what is usual in goods or services of the same type and the standards the Customer can expect as a result of the type of goods or services.

XV. Cancellation of Order

In case of an order cancellation by the Customer the following charges will apply:

- a) Business Unit Equipment Manufacturing
 - ≥ 90 days before confirmed shipment date: 30% of contract value
 - 60-89 days before confirmed shipment date: 50% of contract value
 - 31-59 days before confirmed shipment date: 70% of contract value
 - ≤ 30 days before confirmed shipment date: 100% of contract value
- b) Business Unit Wafer Level Packaging Services
 - > 14 days before confirmed shipment date: 30% of contract value
 - ≤ 14 days before confirmed shipment date: 50% of contract value
- c) Business Unit Chemistry
 - > 14 days before confirmed shipment date: 30% of contract value
 - 7-13 days before confirmed shipment date: 50% of contract value
 - < 7 days before confirmed shipment date: 100% of contract value

XVI. Liability and Right of Rescission

1. Our liability is exclusively governed by the following regulations:

Our liability for cause is limited to

- Intentional acts or gross negligence

- Intentional or negligent breach of essential contractual obligations.

As far as we are liable in cases of slight negligence (*leichte Fahrlässigkeit*) our liability is limited in amount to the contractually typical and foreseeable damages. As far as we are liable in cases of slight negligence (*leichte Fahrlässigkeit*), our liability shall in any case of pecuniary damages be limited to a maximum amount of € 100,000.00 per case of damage or, should the performance consist of the delivery of a software program, to the amount of a one-time license fee or the amount due for twelve months of use; the respectively highest amount will apply. In case of damages to property caused by simple negligence there is a limit in the maximum amount of € 500,000.00. Any further liability on our part for pecuniary damages or damages to property shall be excluded.

The liability for personal injury as well as product liability will not be affected by the preceding clauses.

2. We are only liable for the retrieval of data if the Customer made certain that lost data may be retrieved with appropriate expenditure. The Customer is therefore under the obligation to regularly save the data and programs in adequate intervals.
3. The exclusion of liability based on the preceding clause comprises the personal liability of our organs, employees and other co-workers, representatives or vicarious agents and shall also apply to all claims based on negligence in the cause of contracting, breach of an ancillary contractual duty (*culpa in contrahendo*), inadequate performance and torts (Sections 823 ff *Bürgerliches Gesetzbuch* [German Civil Code]) to the exceptions of claims under Sections 1, 4 *Produkthaftungsgesetz* (German Product Liability Law).
4. The right of the Customer to rescind the contracts as a result of an infringement of our contractual duties due to reasons for which we are not at fault and which do not consist of a fault of goods delivered or services rendered shall be excluded.

XVII. Period of Limitation

1. The Customer's claims of fault (*Mängelansprüche*) shall be statute-barred within one year from the statutory start of the period of limitation. Claims set forth pursuant to Sections 438 I No.1 and 2 and 634a I No. 2 of the *Bürgerliches Gesetzbuch* (German Civil Code) shall be excluded.
2. Any other contractual claims of the Customer due to the breach of duty shall, to the extent the Customer is an entrepreneur, be statute-barred within one year from the statutory start of the period of limitation.
3. The periods of limitation provided for by law, shall not be affected by the above provisions in the following cases:
 - for damages resulting from injuries to lives, bodies or health;
 - for any other damages based on intentional or grossly negligent failure to comply with our contractual duties by ourselves, our legal representatives or vicarious agents;
 - for the Customer's right to rescind the contract due to our failure to comply with our contractual duties for which we are at fault and which does not consist of a fault of goods delivered or services rendered;
 - for claims resulting from fraudulent concealment of a defect and a granted property (*Beschaffheitsgarantie*) within the meaning of Section 444 or Section 639 of the *Bürgerliches Gesetzbuch* (German Civil Code);
 - for claims to remuneration for expenses pursuant to Section 478 para. 2 of the *Bürgerliches Gesetzbuch* (German Civil Code).

XVIII. Retention of Title

1. Any and all delivered goods shall remain in our exclusive ownership until all claims for the purchase price have been satisfied. In case the customer is an entrepreneur any and all delivered goods shall remain in our exclusive ownership until all claims arising from the business relationship are fulfilled. No pledging, security transfer of ownership or other exploitation shall be allowed unless the acquisition of the goods deliberately occurred for resale purposes. In this case the Customer shall have the revocable right to resell the retained goods in his own name within the framework of an orderly conduct of a business, as long as he is not in default of his financial obligations and no covenant exists between the Customer and his purchasers, which would prohibit an assignment. In case of duly resale by the customer to his purchasers the customer must make reference to our retention of title or he must reserve retention of title on the goods for himself. In addition, § IX "Export" of those Terms and Conditions will remain in force.

XIX. Place of Performance and Covenant not to Assign

1. Place of performance for all goods delivered/services rendered shall be Nauen, Germany.
2. The assignment of a Customer's claims against us, which arise from the business relationship, is excluded.

XX. Place of Jurisdiction and Applicable Law

1. The exclusive legal venue for all claims against entrepreneurs and legal entities incorporated under public law which result from this business relationship is Potsdam. This includes cases of claims based on checks, torts and cases of third party notice. We reserve the right to also sue Customers at their place of general jurisdiction.
2. If we perform cross-border services, Potsdam is the exclusively legal venue for disputes arising out of the contractual relationship between the Customer and us (Article 23 of the European Council Directive on Jurisdiction and the Recognition and Enforcement of Judgements in Civil and Commercial Matters [EuGVVO] or Article 17 of the European Civil Jurisdiction Convention [EuGVÜ]). We reserve the right to also sue the Customer at their place of general jurisdiction or call upon any court which has jurisdiction according to said European Council Directive or the European Civil Jurisdiction Convention.
3. All legal relations arising out of or in connection with the contractual relationship between a Customer and us are governed by the substantive law of the Federal Republic of Germany; the application of the United Nations Convention on Contracts for the International Sale of Goods (CISG) shall be excluded.

XXI. Final Provisions

1. In case of differences between the German and English version of these Terms and Conditions only the German version shall apply and be legally binding.
2. If any provision of the above Terms and Conditions is or will become invalid, it will not affect the validity of the other provisions. In place of the invalid provision new provisions shall be inserted which will in meaning get closest to the economic goals of the contract with due observance of the parties' interests.
3. All our previous versions of the General Terms and Conditions for sales and services are substituted by these provisions.

Notice according to Section 33 Bundesdatenschutzgesetz (Federal Data Protection Act): A Customer's data will be saved electronically.