



GENERAL TERMS FOR SILICON PHOTONICS MPW SERVICES

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VTT TECHNICAL RESEARCH CENTRE OF FINLAND

Business ID 0244679-4

1. COMMISSION CONTRACT

1.1 These general terms shall be applied as part of a contract between VTT and the client (hereinafter referred to as the Parties) with which they agree on silicon photonics (SiP) multi-project wafer (MPW) processing services provided by VTT in the form of a commission. In addition to these MPW services the contract between the Parties may also include other work done or other service provided by VTT, such as design, process development, packaging or testing services. All these will be hereinafter referred to as Services. All Services are provided for making prototypes for research purposes.

1.2 All or some of the Services may be promoted or virtually offered through a third party, such as ePIXfab (www.epixfab.eu), although the contract will still be made directly between VTT and the client.

1.3 VTT Group shall mean VTT and those organizations, over which VTT holds direct or indirect control.

1.4 Unless otherwise stated in VTT's offer, the offer shall be valid for one (1) week from the date of the offer, however at maximum until the layout deadline. The contract can be formed by offer and order process. In case the order contains any optional items or additional or contradictory terms compared to the offer, the content of the contract shall be as identified in VTT's order confirmation.

1.5 The contract cannot be transferred to a third party unless the other Party has accepted the transfer.

1.6 No modification in or addition to single provisions in these terms shall be valid unless made in writing.

1.7 If the contract documents have contradictory contents, they shall be valid in the following order: 1) contract, 2) order confirmation, 3) offer, 4) order, 5) these general terms for silicon photonics MPW services and 6) request for offer.

2. CONTACTS

2.1 The Parties shall appoint a responsible contact person for the commission. The other Party shall be notified of the change of the responsible contact person.

3. PAYMENTS

3.1 The payment of the commission shall be agreed upon in the contract documentation. The price shall be stated in euros.

3.2 The Value Added Tax (VAT) and any other taxes and fees imposed by the foreign authorities shall be added when applicable to the price agreed upon in the contract documentation.

3.3 If the objective or schedule of the commission is modified or if any essential modifications, stated jointly by the Parties, occur in the cost level during the validity period of the contract, the payments shall be adjusted accordingly from the date the modifications take place.

3.4 If not otherwise agreed on in a separate invoicing schedule, VTT shall invoice 30% (prepayment) of the total commission price when the client has placed the order, and the remaining 70% (final payment) of the commission price when the corresponding Service or Services have been completed by VTT. Any design, simulation, process development or testing services are completed (and invoiced) when a summary report of the corresponding results has been sent to the client. Any MPW processing or packaging services are completed when the ordered silicon photonic dies or the packaged devices have been sent to the client.

3.5 VTT shall, however, always be entitled to deliver the results cash on delivery or to ask for payment in advance.

3.6 VTT shall be entitled to detain the results of the commission until the client has fulfilled his obligation for payment.

3.7 The invoice shall be paid within 30 days of date of invoice. The interest on overdue payments is the interest according to the Finnish legislation in force (20.8.1982/633). Possible debt collection charges shall be added to the invoice. All remarks to the invoice shall be made within 8 days.

4. CONFIDENTIALITY

4.1 The Parties shall, even after the termination or expiration of the contract, keep confidential the trade secrets and any other confidential information obtained from the other Party in connection with or related to the commission. The obligation for confidentiality shall end ten (10) years after the termination or expiration of the contract, unless a shorter time is agreed upon in the contract.

4.2 Regardless of the obligation for confidentiality VTT has a right, if necessary, to give confidential information to its approved subcontractors and to organizations belonging to VTT Group, provided that they accept confidentiality obligations similar to those contained herein.

4.3 VTT has the right to mention the name of the client as a reference. However, VTT cannot associate the client to any particular MPW run or to any other particular Service without the prior written approval of the client.

4.4 Any design kits, design instructions or MPW process details provided by VTT to the client shall be

considered as confidential information, except for information that is made available to the public by VTT, and may be subject to separately agreed confidentiality obligations.

5. OWNERSHIP AND RIGHT OF USE

5.1 Information, ideas, methods, solutions, devices, data and other material supplied by one Party to the other Party, irrespective of whether they are or can be protected by intellectual property rights, that are generated outside the commission (background), belong to the supplier Party. Any designs and layouts generated by the client and sent to VTT for fabrication under the commission belong to the client subject to clause 5.4. If the background of VTT is needed for exploitation of the results of the commission, the conditions for the user rights to the background shall be agreed separately in writing.

5.2 Any design element libraries, fabrication processes, packaging methods or testing methods, as well as any equipment or tools for design, fabrication, packaging or testing, which are developed, improved or extended by VTT to obtain the results of the commission shall belong to VTT. These shall not be considered as the result of the commission (foreground) and they are not shared with the client.

5.3 Any designs, fabricated dies, packaged devices, measurement results or client-specific reports that are the result of the commission and are sent to the client according to the contract shall be the property of the client, but may be used only for non-commercial purposes. The client hereby represents and covenants that it will not use the results to any other purpose. In addition to this general requirement, the following restrictions apply:

The results may not be used in any optical coherence tomography (OCT) applications without VTT's written permission.

Any other information, ideas, methods, solutions, devices, data or other material, including any reports that are shared between multiple clients of any shared Service, irrespective of whether they are or can be protected by intellectual property rights, which are generated by VTT to obtain the results of the commission will not form a part of the results (foreground) and shall be the property of VTT.

5.4 If the Parties have mutually signed a design kit license agreement (DKLA) or any similar agreement that describes the sharing of design instructions and rules for VTT's silicon photonics technology then the terms and conditions of those agreements also apply to any Services covered by these general terms.

5.5 Each Party is entitled to use the background of the other Party that the former has obtained for the commission, only for carrying out tasks within the scope of the contract.

5.6 Any devices and instruments, such as lithographic masks, that are acquired for the commission by VTT

and not sent to the client as part of the commission, as described in Section 5.2, shall be the property of VTT. 5.7 VTT shall be entitled to use expertise and experience originating from the commission also in its work and activities irrespective of the commission and the contract.

5.8 The ownership of the foreground belonging to the client shall be transferred from VTT to the client when the commission has been fully paid for.

6. INVENTIONS

6.1 Due to the nature of the Services and unless otherwise agreed upon in writing, any invention that results from the commission, shall remain the property of the party that generated the invention.

7. DOCUMENTS AND TEST MATERIAL

7.1 VTT shall return the documents obtained from the client only if so agreed upon in writing when the documents were given to VTT.

7.2 The documents, information, test material, samples or specimens delivered by the client may at VTT's discretion be kept at VTT even after the end of the commission. The client shall not be entitled to compensation if the appropriate execution of the work has required measures resulting in destruction, deterioration, or decrease of the test material or test item.

8. THE RIGHTS AND OBLIGATIONS OF VTT

8.1 VTT shall make commercially reasonable efforts to perform the Services and deliver on time. However, notwithstanding the foregoing and in accordance with clause 11, VTT shall not be held liable for any defects in the performance of the Services or delays or failures to meet delivery dates.

8.2 VTT shall not be entitled to use subcontractors, except organizations belonging to VTT Group, to carry out the work or a major part of it without written consent from the client. However, VTT is entitled to use subcontractors for minor part of the Services, such as certain MPW processing steps.

8.3 VTT shall be released from its obligations to the extent the performance of the Services is prevented by force majeure. In addition VTT shall have the right to suspend delivery when the delay is caused by force majeure, or by the client, a cause independent of VTT, or a cause the client is responsible for.

8.4 If damage is caused to VTT or VTT's work is changed, delayed or suspended because of the client, or the client is responsible for the cause, VTT shall be entitled to compensation for the resulting expenses and damage.

8.5 The terms of delivery of devices, instruments, material or goods are "Ex Works VTT (Incoterms 2000)", unless otherwise agreed upon in writing.

8.6 VTT shall keep the client informed about the general progress of the work and specifically inform

the client beforehand if the delivery is expected to be delayed for more than one week.

9. THE RIGHTS AND OBLIGATIONS OF THE CLIENT

9.1 The client shall give VTT all the necessary data and information needed for carrying out the work and the necessary equipment and other resources agreed upon separately. In particular, for any devices that are to be designed by the client and then fabricated by VTT in an MPW run according to the contract, the client shall send the layout design to VTT within the schedule announced by VTT for that MPW run. Similarly, if the client is requested to send any other input for a design that is to be made or modified by VTT then the client shall send the input within the schedule that is separately communicated from VTT to the client. The client is responsible for following all design rules and instructions provided by VTT and for ensuring that any final layout designs sent by the client to VTT for fabrication in the MPW run comply with the process design kit provided by VTT for the MPW run. If the client doesn't cancel its participation in the MPW run in time and then fails to send the necessary design input to VTT in time and in the form specified in the process design kit, and further waiting for a proper input would delay VTT from ordering the mask set and from starting the MPW processing, the client's design can be left out from the mask set and the MPW run can be carried out without the devices designed by or for the client. In this case the client no longer has right to receive any dies from the MPW run or any packaging or testing services for those dies, while the client still has all the original obligations for paying for the processing run and all other parts of the commission as if the client's design would have been included in the mask set.

9.2 The risk of damage for accidental destruction of the results shall be transferred to the client at the time the results are delivered. If the results have not been delivered on the agreed date due to a delay caused by the client, the risk of damage shall be transferred to the client on the latest day the delivery should have taken place.

10. THE PUBLICATION OF THE RESULTS

10.1 For each result of the commission (foreground) the owner of that result is entitled, at its discretion, to publish that result as long as no confidential information, background or foreground of the other party is published without written authorization from that other party.

10.2 In publication of the results of the commission, the name of VTT shall be mentioned in an appropriate manner.

10.3 The client shall be entitled to use VTT's name or logotype in advertising or in other sales promotion only

with a written consent from VTT. VTT's permanent rules shall apply accordingly.

11. DISCLAIMER OF WARRANTIES AND LIMITATION OF LIABILITY

11.1 VTT DISCLAIMS ALL WARRANTIES, STATUTORY, EXPRESS OR IMPLIED, WITH REGARD TO THE RESULTS AND SERVICES (INCLUDING ALL WARRANTIES OF MERCHANTABILITY AND/OR FITNESS FOR A PARTICULAR PURPOSE, AND ALL WARRANTIES OF FREEDOM FROM CLAIMS OF PATENT, MASK WORK AND/OR COPYRIGHT INFRINGEMENT OR THE LIKE). THE RESULTS AND SERVICES PROVIDED HEREUNDER ARE SUPPLIED "AS IS". THE ENTIRE RISK TO THE USEFULNESS, QUALITY AND PERFORMANCE OF THE RESULTS AND SERVICES IS WITH THE CLIENT.

11.2 VTT does not warrant the outcome, its working, correctness or usefulness of the results. The client affirms that it understands that VTT cannot guarantee correct working of the designs of the client manufactured on MPW run.

11.3 VTT shall not be liable for any direct or indirect damage, including but not limited to loss of profits, loss of use, loss of goodwill, interruption of business and/or extended, special, incidental or consequential damages, of any kind, in connection with or arising out of the furnishing, performance and/or use of the results or services, regardless of whether such damages are alleged and/or sought under contract, tort and/or other theories of law. No obligation or liability shall arise or flow out of VTT rendering technical or other advice in connection with the results or services. Client further agrees that VTT will not be liable for any claim or demand against the client by any third party arising from the furnishing, performance and/or use of the results or services.

11.4 In case the above stated limitations of liability are considered void in some jurisdictions, the liability of VTT shall in any case be limited to the price payable for the commission.

11.5 The Parties expressly affirm that they are aware of the technical and other risks attached to the work and knowingly accept these uncertainties, and the fact that the results and the goals may not necessarily be achieved.

11.6 In any case possible liability of VTT shall expire one (1) year after the delivery of the results. If the results have not been delivered at the agreed moment due to a delay caused by the client, the above mentioned period shall start on the latest day the delivery should have taken place.

11.7 VTT shall not be liable for any damages or defects caused by client's background. The client shall indemnify and hold VTT harmless according to any claims involving product liability. VTT shall not be liable or bound by any warranties or representations that the

client may provide to its own customers or end-users. The client warrants that any designs provided by the client to VTT shall not infringe the intellectual property rights of any third parties. The client agrees to defend, indemnify and hold harmless VTT and its officers and employees from all liability, demand, damage, loss or expense that they may at any time incur by reason of any claims made against VTT arising from the services performed for the client.

12. FORCE MAJEURE

12.1 Force majeure is an event that prevents, or makes unduly difficult, the performance of the work within the agreed schedule. Such events shall be war, rebellion, natural catastrophe, general interruption in energy distribution, fire, a limit imposed by the state budget or the Government of Finland to the activity of VTT, strike, embargo, or some other equally significant and unusual event independent of the Parties. The delay of subcontractor caused by the above events is also considered force majeure.

13. TERMINATION OF CONTRACT

13.1 If a Party essentially breaches the terms of the contract, the other Party shall have the right to terminate the contract.

13.2 If the client breaches the terms of the contract, VTT shall be entitled to temporarily suspend the work instead of termination until it is determined whether the breach of contract leads to termination of the contract.

13.3 VTT shall have the right to terminate the contract if the client is obviously insolvent or is filed for bankruptcy or liquidation or any other arrangement for the benefit of its creditors.

13.4 Each Party shall have the right to terminate the contract if the fulfilment of the contract as a result of continued force majeure becomes impossible or is essentially delayed or delayed for over 12 months.

13.5 In the case of early termination, the client shall be obliged to pay a price according to the charges for the part of the work acceptably performed up to the date of termination, or if it is agreed that VTT shall continue the work, to the date the work was finalized. If some costs are shared between VTT's multiple clients, for example in MPW runs, then the client shall be obliged to pay its share of the overall charges until the termination or finalization of the work.

13.6 VTT shall be entitled to compensation for the expenses and damage due to the early termination if the termination is caused by the client or a cause it is responsible for.

14. CANCELLATIONS IN AN MPW RUN

14.1 The client can cancel its participation in the MPW run by informing VTT about this in writing before the layout deadline that is set by VTT for delivering the layout designs for the MPW run to VTT. In this case the client shall pay only the prepayment part (30%) for

those parts of the commission that represent MPW processing services or any other Services, such as packaging or testing, that were agreed to be carried out only for dies originating from the MPW run and cannot be carried out after the cancellation.

14.2 VTT can cancel the implementation of the MPW run in such a case where at least one planned participant of the MPW run cancels its participation in the MPW run before the layout deadline described above, and this prevents VTT from implementing the MPW run with sufficient number of paying customers. In this case, and only if the client did not cancel its own participation in the MPW run, the client shall not need to pay anything for those parts of the commission that represent the cancelled MPW processing services or any other Services, such as packaging or testing, that were agreed to be carried out only for dies originating from the cancelled MPW run and cannot be carried out after the cancellation. In consequence of this special case VTT will refund any prepayment that the client has already paid for those parts of the commission that are no longer payable by the client.

14.3 Even if the client cancels its participation in the MPW run or VTT cancels the implementation of the MPW run the client shall still be obliged to pay the full price (30% prepayment and 70% final payment) for any Services that were carried out already before the cancellation, were related to the design of such components that were planned to be fabricated in the MPW run, or can be carried out even after the cancellation.

14.4 All VTT's obligations that concern those parts of the services that are cancelled either by the client or VTT according to 14.1 or 14.2 are also cancelled.

15. DISPUTES

14.1 Any disputes arising out of the contract which cannot be solved amicably shall be submitted:

- in case the Parties are established or incorporated in the EFTA or EU states, to the District Court of Helsinki (court of first instance),
- in case any of the Parties is established or incorporated outside the EFTA and EU states, to arbitration procedure and shall be finally settled under the Arbitration Rules of the Finnish Central Chamber of Commerce by one or more arbitrators appointed in accordance with said rules.

14.2 The contract shall be subject to Finnish law, except for its rules on conflict of laws.