

General Terms & Conditions (GTC)

TECTUS GmbH

1. General terms, scope of application

1.1 All contracts, deliveries and services shall be accepted only in accordance with the following Terms and Conditions. The following Terms and conditions also apply if TECTUS make deliveries without any reservation, knowing that the customer terms are opposing or different from these terms. Terms and conditions of our customer which differ from TECTUS terms are only valid as long they are expressly confirmed by TECTUS in writing. All verbal side agreements are only valid, if the expressly confirmed in writing by TECTUS.

1.2 This terms and conditions are also valid for all present and future business relations, deliveries and orders between the parties. In event of discrepancies between the English and German text, the German text takes priority.

2. Offers, documents, conclusion of a contract

2.1 Our offers, including the relevant designs and pictures, are without engagement unless expressly indicated as binding.

2.2 We reserve all rights of property and use regarding pictures, designs, calculations and other information. They shall not be passed on to third parties. This is especially true for any such information which is marked as « confidential ». For the transmission of such information to third parties, customers need our explicit agreement in writing.

2.3 The contract becomes valid only by fulfilling or our order confirmation in writing.

3. Price calculation

3.1 Our prices are, ex works, duty unpaid and not insured, without packing and shipping charges, plus the statutory VAT. Any such fees will be charged separately.

3.2 If not stated otherwise on our order confirmation, the invoiced amount is payable within 30 days net from date of invoice (without reduction). During the payment delay, customer has to pay interest on the debt to the amount of 7% over the current base interest rate.

3.3 Our customer is not entitled to compensation unless his counterclaim is legally confirmed, not contested and acknowledged by us. Our customer has no right of lien for contested counterclaims.

4. Deadlines, fulfilment of contract, delays

4.1 Delivery and production terms communicated orally or in our offers are not binding unless a definite deadline has expressly been confirmed by us in writing.

4.2 Deadlines can only be complied with under the condition that the customer meets his obligations promptly and correctly.

4.3 Should we fall behind with our deliveries due to reasons outside our control, any claims for damages are excluded.

4.4 In case we have fallen into arrears with deliveries and our customer threatens with rejection after granting us a reasonable period of time, he has the right to withdraw from the contract if delivery has not been effected during this period. Our customers are entitled to claims for indemnification due to non fulfilment only if the falling behind is intentional or based on gross negligence.

5. Delivery terms, passing of risk, late acceptance

5.1 Our goods are delivered ex works. The passing of risk passes over to our customer with the notification that delivery is ready for shipment, latest, however, when the goods are held ready for shipment or dispatch. This also applies if we carry the transportation costs or effect the shipping ourselves. If requested by our customer, we shall take out a transportation insurance for the delivery. The costs accrued will be carried by our customer.

5.2 Should we not receive prompt and correct deliveries from our suppliers, we have the right to withdraw from the contract. If we exercise our right of withdrawal, our customer will not be able to assert any claim for damages with us. This is especially true for delayed deliveries from our suppliers due to technical problems and qualitative yield in the process of production of semiconductors and microchips.

5.3 Should our customer be late in accepting or should he otherwise not meet his obligations regarding co-operation, we have the right to claim damages, including possible additional expenses.

6. Disposal of material

Used packaging and products cannot be returned to us unless it is reusable material for which we charge a deposit. In this case, the packaging has to be returned to our works, free of charge and in clean and impeccable condition, whereupon the deposit previously charged is refunded.

7. Warranty and notification of defects, liability

7.1 Under the right of warranty the customer is obliged to carry out incoming controls for all goods and check the goods properly. Notification of defects has to be given in writing latest seven days after receiving the goods.

7.2 Should a notification of defects be justifiable and advised to us in writing without delay, we shall either take the faulty goods back and replace them or reserve the right to reconditioning.

7.3 The customer shall immediately give us the opportunity to verify the defect and in particular on demand, put at our disposal the goods in question or samples thereof. Otherwise the warranty will not apply.

7.4 We do not give warranty for defects that are caused through no fault of our own, in particular not for defects caused during transportation, improper handling or storage.

7.5 Unless otherwise stated hereinafter, further claims from our customer, on whatever legal grounds, are excluded. We are accordingly not responsible for any damages that are not caused on the delivered goods themselves. In particular, we are not responsible for our customer's loss of profit or other financial damages due to costs and damages that are claimed from the customer by third parties. This does not apply in case of deliberate action or gross negligence.

7.6 The warranty period is 12 months, counting from the passage of risk. This period is also valid for claims of replacement due to damages caused by defects provided no claims are raised resulting from unlawful acts.

8. General limitation of liability

8.1 Any further liability for indemnification is excluded, irrespective of the legal nature of the lodged claim.

8.2 This regulation does not apply to claims in accordance with product liability law or for cases of impossibility.

9. Software

We grant our customer a non transferable right of use for software and relevant documentation entrusted to him. Neither the software nor the relevant documentation is to be passed on to third parties. This applies to the original as well as to complete or partial copies.

10. Retention of title for the purpose of securing a debt

We reserve the proprietary rights of the delivered goods until receipt of all payments linked to the contract. Should our customer act contrary to the terms of the agreement, in particular fall in arrears with his payments, we have the right to reclaim all delivered goods. By regaining possession of the goods, we do not withdraw from the contract unless explicitly stated in writing.

10.2 Our customer is obliged to handle the delivered goods with care. He is in particular obliged to insure them sufficiently for the purchase price against damages from fire, water and theft at his own costs.

10.3 In case of seizure or other interventions by third parties, we have to be immediately notified by the customer in writing in order for us to assert our rights.

10.4 Our customer has the right to re-sell the delivered goods in the ordinary course of business. He, however, already assigns all his claims to us now and assures us the right to have all his claims collected by us (on the level of his obligations towards us, including VAT) if we declare this explicitly and at any time in writing. For this we shall receive, on demand, all necessary customer data, and our customer shall inform his debtor about the transfer. If we do not make use of this right, our customer shall be authorised to collect the claims.

10.5 Should the goods be processed or inseparably mixed, we acquire the co-ownership of the new product in proportion of the value of the product delivered by us. For the goods to be processed, the same is valid as for the goods delivered under reservation.

11. Place of performance, court of jurisdiction, applicable right

11.1 Place of performance shall be TECTUS registered office.

11.2 Place of jurisdictions shall be D-47445 Moers, Germany.

TECTUS is entitled to assert any or all claims against a contracting party before any other competent court.

11.2 The contractual relationship between the parties shall be governed entirely by German law.

12. Conclusion

Should specific portions of these terms be or become legally invalid or unworkable, this does not affect the validity of the other clauses. In this case the parties will be obliged to put a valid or workable clause in place of the invalid or unworkable one, which corresponds as much as possible with the spirit or the purpose of the one to be replaced.

This terms and conditions are valid dated 02.03.2009

TECTUS Transponder Technology GmbH
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