

Service Agreement – Parts Cleaning Standard Terms and Conditions

By accepting a WaferTech Purchase Order for Parts Clean Services, the Supplier agrees to the following terms and conditions:

1. TERM

- 1.1. The term of this Agreement is contiguous with the term of the Parts Clean Service arrangement between Supplier and WaferTech, unless this Agreement is superseded by a separate written agreement. Conditions set forth in Sections 6, 8, 9, 10, 11, 12, 13, 17, 19, and 20 survive the term of this Agreement.

2. DEFINITIONS

- 2.1. "Services" means the provision by Supplier of services intended to restore used and worn Components to operational condition, including disassembly and inspection for damage, cleaning, decontamination, preventative maintenance, twin wire arc spray surface preparation services on Components, rebuilding and packaging for shipment;
- 2.2. "Components" means parts, materials, fixtures, sub-assemblies and other components of WaferTech's semiconductor manufacturing equipment that are the subject of Services;
- 2.3. "Purchase Order" shall mean an order for Services placed on Supplier by WaferTech.

3. SCOPE

- 3.1. These terms and conditions shall apply to all orders made by WaferTech and accepted by Supplier for the provision of Services under the Purchase Order as defined herein.
- 3.2. No modification to these Conditions or representations about the Services are valid unless in writing and duly signed by Supplier and WaferTech authorized representatives.
- 3.3. These Conditions shall not be supplemented by any trade usage or any course of prior dealings or acquiescence in any course of performance.

4. PURCHASE ORDERS

- 4.1. As needed, WaferTech shall submit to Supplier a Purchase Order for the provision of Services. Acceptance of a Purchase Order will normally be advised by Supplier within 30 days of receipt. No obligation shall be binding on Supplier unless the Purchase Order is accepted by Supplier in writing, or, if earlier, Services are performed.
- 4.2. WaferTech may accept a counteroffer only by written acknowledgement.

5. QUOTATIONS

- 5.1. Prices quoted by Supplier for Services remain valid for 90 days unless otherwise specified.
- 5.2. Prices quoted are exclusive of all applicable taxes, including, but not limited to any value added tax, Federal, state and/or municipal excise, sales and/or use taxes, levies and duties of any nature whatsoever ("Taxes") applicable to the Services.
- 5.3. All Taxes shall be paid by WaferTech unless WaferTech provides Supplier with an exemption certificate acceptable to the relevant taxing authority.

6. INSPECTION

6.1. All Services supplied to WaferTech will be deemed accepted unless WaferTech notifies Supplier, within 60 days after WaferTech installs the cleaned Component, of a claim. Failure to make such claim shall constitute unqualified acceptance of the Services and a waiver of all claims by WaferTech. Damaged cleaned Components and/or packaging for which WaferTech makes a claim must be kept for ninety (90) days for Supplier inspection, which may be waived in writing by Supplier or by payment of the claim.

7. PERFORMANCE, SHIPMENT AND DELIVERY

- 7.1. Supplier will supply the Services within the time requested in the Purchase Order and in any event within a reasonable period. Time is of the essence in provision of the Services to WaferTech.
- 7.2. For Services utilizing manual pick-up and delivery, delivery of cleaned Components to the carrier at Supplier's facility or other loading point constitutes delivery to WaferTech.
- 7.3. WaferTech is responsible for shipment of Components to Supplier's facility unless otherwise specified by written contract.
- 7.4. Unless otherwise agreed in writing, all shipments of cleaned Components shall be made FCA Supplier's facilities (Incoterms 2000). If other delivery arrangements are agreed to, Supplier may, at WaferTech's request and expense, arrange carriage and insure the cleaned Components against normal transit risks to the value of the price paid for the Services or the price of replacement Component, whichever is greater.
- 7.5. If WaferTech provides Supplier with packing and/or delivery instructions, in writing, Supplier will follow those instructions. In the absence of instructions, Supplier shall package and handle Components in accordance with good commercial practice to protect them from damage during handling and transportation.

8. CHANGES AND DEFECTIVE COMPONENTS

- 8.1. Changes in the Services to be performed may be made only upon WaferTech's written order. If such changes cause an increase or decrease in the amount due under the Contract, or the time required for performance of the Services, an equitable adjustment shall be made and the Contract modified only upon agreement by Supplier and WaferTech's Purchasing Department.
- 8.2. Supplier will notify WaferTech following discovery that any received Components are defective or have been damaged or are for any other reason unsuitable for the performance of Services by Supplier and Supplier will, with prior approval from WaferTech, arrange for the repair of any such defective Components and charge the costs of repair to WaferTech or return the part to WaferTech, at WaferTech's election.
- 8.3. Supplier is hereby notified and understands that the Components are used in the semiconductor manufacturing process, and therefore highly sensitive to contamination. Supplier will notify WaferTech prior to making any major material changes to its cleaning process or prior to the replacement of any parts with non-standard materials.

9. PAYMENT

- 9.1. All amounts are stated and payments are to be made in U.S. Dollars unless otherwise agreed by WaferTech and Supplier in writing.

- 9.2. Terms of payments under this Agreement are net 45 days from the date of invoice.
- 9.3. If any payment is more than 30 days past due, unless WaferTech provides reasonable and acceptable assurances without delay, Supplier shall be entitled, without prejudice to any other right or remedy, to charge interest on any amount overdue at the applicable statutory default interest rate, and if none exists, then at the rate of 10% per annum compounded monthly.

10. TITLE

- 10.1. Title to the Components remains with WaferTech at all times.
- 10.2. Supplier may not use Components as collateral in any way, and will at all times ensure that Components are properly segregated and identified as WaferTech property.

11. INTELLECTUAL PROPERTY

- 11.1. WaferTech or the Component manufacturer retains ownership of any patent, copyright, trade secret, design right or other intellectual property right in the Component and in any technical information, know-how, drawings, specifications or any other documents supplied in connection with providing the Component.
- 11.2. Supplier shall not use WaferTech, TSMC or any its associated companies', trademarks and names other than as applied by Supplier to the Services.

12. WARRANTY

- 12.1. Supplier shall perform the Services in a workmanlike manner using reasonable skill and care. Unless otherwise agreed in advance, Supplier shall provide such services as are, in Supplier's reasonable opinion, necessary to clean the components supplied to it by WaferTech. If specifications are provided, the cleaned Component will conform to the specification.
- 12.2. If subsequent to the performance of Services damage, failure or breakdown of the Component (fair wear and tear and consumables excepted) occurs:
 - 12.2.1. During the 60-day period from the date of installation of cleaned Components to WaferTech;
 - 12.2.2. During normal usage; and
 - 12.2.3. After a reasonable opportunity for Supplier to inspect the allegedly defective Component and to review documentation pertinent to the damage, failure or breakdown:
- 12.3. At WaferTech's election, Supplier shall replace the Component as set forth in Section 13 below, correct or re-perform the service or refund the cost of the services. In no event shall Supplier have any obligation (i) with respect to any component which has been re-worked without Supplier's prior written approval; or (ii) for any damage, failure or breakdown of any component caused or contributed to by WaferTech's act or omission, including improper installation, abuse, misuse, negligence, accident or corrosion.
- 12.4. Nothing stated in these conditions implies that the operation of any cleaned components will be uninterrupted or error free or that errors will be corrected. Other written or oral statements by Supplier, its representatives, or others do not constitute warranties of Supplier.

13. LIABILITY AND INDEMNIFICATION

- 13.1. Neither party shall bring action or suit against the other for damages arising out of the performance of or failure to provide services (including late performance and loss of or damage to components) or transportation of Components, whether such suit or action is for breach of contract, breach of warranty, tort or otherwise, unless such action is commenced within one year after the cause of action arises.
- 13.2. Supplier is aware that the Components are to be used for the manufacture of semiconductor wafers, which have a high sensitivity to chemical impurity.
- 13.3. The parties agree to indemnify and hold the other harmless for any and all claims and demands including attorney's fees due to or arising from the provision of Services under this Agreement.

14. FORCE MAJEURE

- 14.1. Neither WaferTech nor Supplier shall be liable for failures in performance, including delay or non-shipment, resulting from acts or events beyond its reasonable control.
- 14.2. Such acts or events shall include, but shall not be limited to, acts of God, civil or military authority, civil disturbance, fire, strikes, delayed issuance of export control licenses, or other "force majeure" events beyond the reasonable control of the non-performing party.
- 14.3. In the event of such delay, the date of shipment shall, at the request of Supplier, be deferred for a period equal to the time lost by reason of the delay.

15. CANCELLATION

- 15.1. No Contract may be cancelled or altered by WaferTech or Supplier except upon terms and conditions acceptable to WaferTech and Supplier.
- 15.2. Unless otherwise agreed upon in writing by Supplier, should WaferTech cancel any Contract, WaferTech shall pay to Supplier the costs of all work done and materials purchased or provided in connection with the Services up to the time of cancellation.

16. TERMINATION

- 16.1. If WaferTech is declared insolvent or files for bankruptcy protection, all sums due to Supplier under the Contract shall immediately become due and payable and Supplier may, notwithstanding any previous waiver, terminate the Contract by written notice. If Supplier is declared insolvent or files for bankruptcy protection, WaferTech may request immediately return of all Components without penalty, and Supplier declares WaferTech its attorney in fact to secure proper customs clearance to achieve the return of such Components.
- 16.2. Either party may terminate the Contract subject to ninety (90) days prior written notice for any reason. In the event of a failure by either party to comply with any material provision of these Conditions, if the failure continues for more than seven (7) days after written notice of such failure, then either party may terminate immediately.
- 16.3. Termination shall be without prejudice to any prior right of either party.

17. **CONFIDENTIAL INFORMATION.** During the course of this Agreement, either party may have or may be provided access to the other's confidential information and materials. Provided such are marked in a manner reasonably intended to make the recipient aware, or the recipient is sent written notice within thirty (30) days of disclosure, that the

information or materials are "Proprietary" or otherwise, each party agrees to maintain such information in accordance with the terms of any NDA between the parties. In the absence of a NDA or other written agreement, at a minimum each party agrees to maintain such information in confidence and limit disclosure on a need to know basis, to take all reasonable precautions to prevent unauthorized disclosure, and to treat such information as it treats its own information of a similar nature, until the information becomes rightfully available to the public through no fault of the non disclosing party. Supplier's employees who access WaferTech's facilities may be required to sign a separate non-disclosure agreement prior to admittance to WaferTech's facilities. The obligations stated in this section shall survive the expiration or termination of this Agreement.

18. **SITE ACCESS.** Prior to accessing WaferTech's facility without a WaferTech escort and, if necessary, on an annual basis thereafter, Supplier's agents, employees, and subcontractors shall be required to take a course explaining company policies and procedures relevant to performing services on site. Upon successful completion of the course, WaferTech shall issue Supplier's agents, employees and subcontractors a Site Access Badge. Time spent, not to exceed 8 hours annually per individual, completing the course shall be the responsibility of the Supplier and shall not be billable to WaferTech.

19. **MISCELLANEOUS**

- 19.1. Neither Supplier nor WaferTech may assign or transfer its rights to the Contract, by operation of law or otherwise, without the prior written consent of the non-assigning party.
- 19.2. In the event that any term or provision of these Conditions is declared null and void or unenforceable by any court of competent jurisdiction, the remainder of the provisions of these Conditions shall remain in full force and effect to the fullest extent permitted by applicable law.
- 19.3. The Contract and these Conditions constitute the entire contract between Supplier and WaferTech relating to the performance of and payment for the Services. These Conditions shall inure to the benefit of and shall be binding upon Supplier and WaferTech and their respective successors and assigns, including any entity with which either party may merge or consolidate or to whom either party may transfer assets relating to the performance of the Services.
- 19.4. No waiver by either party of any breach by the other party of any of these Conditions shall be deemed to constitute a waiver of any other breach nor shall any delay or omission on the part of either party to exercise or avail itself of any right or remedy hereunder operate as a waiver thereof. A waiver given by a party hereunder shall be binding upon such party only if in writing and signed by such party.
- 19.5. Supplier shall safely store historical records of Component processing Supplier which are retrievable for at least fifteen years from the date the Component was processed unless other record retention requirements are agreed upon in writing by WaferTech and Supplier.
- 19.6. WaferTech, and WaferTech's customers, have the right during performance of the Agreement to audit Supplier's, and Supplier's service Suppliers, Quality Assurance Systems to ensure they comply with WaferTech's, and WaferTech's customers', Quality Assurance requirements. WaferTech requires that Supplier's Quality Assurance System be compliant with, or in the process of becoming complaint with, the WaferTech Quality System. WaferTech, and WaferTech's customers, also have the right during performance of the Agreement to conduct inspections and audits of

Supplier's processing areas to ensure compliance with Supplier's Quality Assurance System and for verifying proper inventory control systems.

- 19.7. Supplier, its employees, subcontractors, and agents shall not enter upon or begin Services at the Property until Contractor obtains sufficient insurance and names WaferTech as additional insured for primary and non-contributing coverage. Such insurance shall include a waiver of subrogation and waiver of immunity.
- 19.8. Supplier shall comply with all applicable federal, state and local laws, government orders, rules, ordinances, and regulations in performing its obligations under the Agreement. Supplier shall comply with all WaferTech policies which Supplier is made aware, including but not limited to policies against violence in the workplace, the prohibition of drugs and alcohol on WaferTech's premises, and WaferTech's Hazardous Substance Free Policy, which prohibits the use of lead, mercury, cadmium, hexavalent chromium, poly-brominated biphenyls (PBB) and poly-brominated diphenyl ethers (PBDE) at WaferTech without WaferTech's express written approval, in performing its obligations under this Agreement. Neither WaferTech nor Supplier shall export or re-export, directly or indirectly, Components or information pertaining to the Components or the Services to any country whose government or any agency thereof requires an export license or governmental approval at the time of export or re-export without first obtaining such license or approval.

20. **GOVERNING LAW AND DISPUTE RESOLUTION**

- 20.1. The laws of the State of Washington shall apply to these Conditions as to all state law issues without giving effect to Washington choice of law principles, except as to copyright and trademark matters which are covered by Federal law.
- 20.2. Supplier and WaferTech agree that the courts of the State of Washington shall have the exclusive jurisdiction to settle any disputes which may arise in connection with the Contract.