

**General Terms and Conditions of Sale and Delivery  
(Chemistry)**

**of**

**Atotech Nederland B.V.**

**(“Atotech”)**

These General Terms and Conditions of Sale and Delivery are registered at the Chamber of Commerce in Utrecht under registration number (30038883)

**I. General**

1. These General Terms and Conditions of Sale and Delivery are applicable to: all offers and order confirmations given by Atotech; concluded contracts; and contracts to be concluded and deliveries to be made.
2. No other general terms and conditions will apply unless Atotech provides its explicit written approval. The applicability of other general terms and conditions have expressly been rejected by Atotech.

**II. Offers and contracts**

1. Offers will only be given in writing and are subject to contract.
2. Atotech reserves all rights regarding estimates, drawings and other documents. The customer is not allowed to provide such estimates, drawings and other documents to third parties. Insofar as no contract has been concluded between Atotech and the customer, the estimates, drawings and other documents must be promptly returned to Atotech without its express request.
3. A contract will only exist when: the order confirmation is in writing and has been signed by Atotech; and Atotech has received the order or has started with the execution of the order.
4. Insofar as Atotech and the customer have agreed to a partial delivery, such a partial delivery will be calculated and charged separately. Complaints regarding these partial deliveries will not affect the further processing of the order.

### **III. Transport**

1. The actual delivery occurs ex works. The transport of the goods is at the cost and risk of the customer. This is also applicable when the transport has been arranged by Atotech. Transport includes the loading and unloading of the goods.
2. Announced or confirmed delivery dates are only estimated dates and cannot be considered as an essential term of delivery unless explicitly agreed to otherwise. Atotech cannot be held liable, and cannot be deemed to have neglected its obligations towards the customer, if a delivery takes place within a reasonable period before or after the agreed delivery date. The customer is to send a written notice of default, including a reasonable timeframe during which Atotech is to fulfill its obligations.
3. If the customer does not receive the goods, the customer will incur all the subsequent costs and expenses, including but not limited to transport and storage.

### **IV. Insurance and notification requirement**

1. At the written request of the customer, Atotech will insure the goods that are to be delivered.
2. If the goods have been insured by Atotech, the customer has to follow the following procedure:
  - \* Atotech has to be informed, in writing, immediately after damage has occurred; and
  - \* If possible the transporter should be involved in the assessment of the damage.
3. Damage is not due if the insurer considers it to be inapplicable (completely or partially) for compensation purposes and consequently, will not compensate the damage.

### **V. Payment conditions**

1. Unless agreed upon otherwise, payment will be due by the customer into the bank account mentioned on the invoice, within 30 days of the invoice date.
2. If the customer does not comply with his obligations, Atotech will be entitled to terminate the contract, to claim the supplied goods and to seek damages.
3. All payments have to be made by the customer without a deduction or the right to offset.
4. If the customer exceeds the term of payment to Atotech, he will be liable to the legal trade interest pursuant to Article 6:119A Dutch Civil Code (*Wettelijk handelsrecht*). Without prejudice to the entitlement of Atotech to claim actual damages, the customer will be obliged to reimburse any extra judicial collection costs to Atotech. The extra judicial costs will amount to at least 15% of the indebted amounts of the principal sum.

### **VI. Retention of title**

1. Atotech hereby retains title of ownership to all goods delivered until full payment of the purchase price has been made and the settlement of any current debt by the customer to Atotech has been paid. Nevertheless, at the moment of the actual delivery, all the risks associated with the goods will be borne by the customer.

2. The customer is obligated to adequately insure the goods delivered, under retention of title, at his own expense against losses and/or damages, unless provided for otherwise in a written agreement to the effect that Atotech will bear responsibility for the insurance. The customer will assign Atotech to be the beneficiary of the insurance as long as the goods are within the scope of the retention of title, pursuant to Article VI.1 (retention of title).

## **VII. Prices**

1. All prices are exclusive of the value added tax (*BTW*) and other taxes/levies.
2. If one or more cost-price factors are subject to a price increase (due to unforeseen circumstances or not), before the order or contract has been fully executed Atotech will be entitled to increase the already agreed prices and rates.

## **VIII. Guarantee**

1. Atotech will only bear responsibility for restoring or replacing a defect or different product.
2. Complaints concerning incomplete or inaccurate deliveries, or apparent defaults, must be reported, in writing, to Atotech within 14 days after the delivery of the goods and/or performance of the services, or promptly after this time period, if the default could not have been detected earlier. In the event that this term has not been complied with, the (guarantee) obligations of Atotech expire.
3. In any event, the obligation of Atotech expires 12 months after the actual delivery.
4. Small deviations of the agreed quality cannot lead to a claim under this Article VIII.

## **IX. Liability**

1. Atotech will make the necessary efforts to execute the contract properly. In case of an attributable shortcoming of Atotech, in observing the contract, Atotech will compensate the direct damage of the customer, without prejudice to Article VIII.
2. Under no circumstances will Atotech be liable for any possible indirect and/or consequential damage (including, but not limited to, the production losses and loss of profit).
3. In any case (any event; a sequence of correlated events deemed to be a single event) the liability of Atotech will be limited to the costs that Atotech, in respect to the delivery of the goods or services for which liability is assumed, charged to the customer.
4. The limitations of liability in Article IX are not applicable insofar as the damage can be attributed to the willful misconduct or gross negligence of Atotech.

## **X. Installation and service**

### 1. Cooperation of the customer

The customer will, at his own expense, do everything necessary to ensure that the agreed service can be carried out under normal working conditions. Unless agreed to otherwise, the customer will at his own expense put at Atotech's disposal: the necessary specialized and assisting personnel; tools and equipment; aid and lifting equipment; excavators; foundations; constructions; support; scaffolding and paint including building materials; industrial power; water and waste water connected to the place of use as well as heat; sufficiently large and suitable rooms for the storage of equipment, parts, other materials and tools for the performance of work and for the accommodation of service staff as well as suitable sanitary facilities; protective clothing and protective safety equipment necessary in the special circumstances and not common to our line of business. The customer will, if necessary, also assist in acquiring accommodation for Atotech's employees.

### 2. Liability

Atotech will only be liable for compliance with safety and other regulations not generally observed in the electroplating and/or galvanic industries, as well as with foreign regulations, if this has been expressly agreed to in writing. As to the supervision of the power plants, Atotech's liability will be limited to the surveillance of the customer's employees; Atotech assumes no liability. If the customer provides equipment or parts, Atotech will not be liable for the quality or suitability of such equipment or parts.

### 3. Rates

Unless agreed upon otherwise, service shall be invoiced at the most recent rates.

## **XI. Miscellaneous**

1. The customer will not assign his rights under this contract to third parties without Atotech's prior written consent.
2. Atotech's software provided to the customer may only be used with the designated computer hardware. The customer is entitled to make one back-up copy for security purposes.
3. In relation to these conditions and the relevant offers, deliveries and contracts, Dutch law exclusively applies with the explicit exclusion of the Vienna Sales Convention. All disputes will be submitted to a competent judge in Utrecht (the Netherlands).