

General Terms and Conditions of Purchase for Freight Carriers and Shipping Agents

**of ATOTECH Deutschland GmbH & Co. KG
("ATOTECH")**

Preamble

ATOTECH is an internationally operating company which, among its other activities, develops, manufactures and sells equipment, processes and chemicals for decorative and functional surface finishing, semiconductor and printed circuit board manufacturing.

ATOTECH exports its equipment and chemicals worldwide and engages freight carriers, shipping agents and logistics services providers to fulfil its supply obligations. As a means of optimising costs and assessing quality, ATOTECH also uses internet-based platforms as purchasing tools, in particular the platform iSea, for air and sea freights.

The customer will be hereinafter referred to as ATOTECH. Entrepreneurs in the freight and transport businesses as well as shipping agents contracting in their own name (Section 458 HGB [*German Commercial Code*]) will be referred to as freight carriers; entrepreneurs in the shipping, logistics and storage businesses who are not freight carriers will be referred to as shipping agents.

The following terms and conditions are applicable to any and all orders issued within the scope of the business relationship.

ATOTECH's General Terms and Conditions of Purchase shall be applicable in all cases. Contrary terms and conditions are inapplicable, even if their applicability has not been expressly objected to.

1. Scope of Application

1.1 These terms and conditions apply to entrepreneurs who

- as freight carriers conclude freight contracts for road haulage with ATOTECH;
- as shipping agents contracting in their own name conclude shipping contracts (Section 458 HGB) at fixed transport costs (Section 459 HGB) and for consolidated shipments (Section 460

HGB) and storage contracts with ATOTECH;

- as logistics companies perform services for ATOTECH which are related to the transport or storage of goods;
- as freight carriers or shipping agents receive contracts via internet-based platforms such as iSea.

1.2 These terms and conditions apply to transport activities in domestic and cross-border transportation, unless they are in conflict with the rules of CMR, and to cabotage transports within other EU and EEA member states, and unless the accepting member state's mandatory regulations are in conflict with these terms and conditions. Furthermore, they are applicable to national combined freight transport as well as to multimodal and intermodal transport.

1.3 These terms and conditions are also applicable to orders placed by ATOTECH where delivery is made to other companies in the ATOTECH Group, especially abroad. **In this case and unless otherwise agreed, the invoice is to be addressed to the company in the ATOTECH Group which is the recipient of the delivery. Should the invoice not be paid by the said company of the ATOTECH Group within the agreed payment term, the invoice must then be issued to ATOTECH, see Subsection 26.1.**

I. Freight Business, including Shipping Agents contracting in their own name

2. Information Obligations and Vehicle Provision

2.1 ATOTECH will notify the freight carrier, well before performance of the transportation service, of any and all significant factors affecting the performance of the contract. Besides type and characteristics, weight, quantity and any deadlines which must be observed, such factors also include technical requirements for the vehicle and any accessories which may be necessary. ATOTECH will provide information about the value of the goods if and when this is of significance for the transport procedures, the delivering vehicle/accessories or the sum insured of the freight carrier's liability insurance.

2.2 The freight carrier covenants to provide to ATOTECH, in good time and in a satisfactory form, suitable, roadworthy and clean cargo space appropriate for the carrier's requirements in vehicles, containers and swap bodies. ATOTECH reserves the right to examine the cargo space and, in the event of legitimate concerns, to reject the cargo space. In the event of a justified rejection, the freight carrier is obligated to immediately provide new and suitable cargo space. The freight carrier shall bear any costs incurred for the procurement as well as any subsequent costs generated as a result.

3. Handover of the Goods

- 3.1 ATOTECH shall hand over to the freight carrier the goods which are to be transported in a condition making them ready for transport, in accordance with Section 411 HGB. ATOTECH shall also hand over the required accompanying documents, filled out properly (Sections 410, 413 HGB).
- 3.2 In case the freight carrier performs the transportation service, despite the requirements of Subsection 3.1 not being met, and the freight carrier has pointed out such lack of completion to ATOTECH, the freight carrier shall enter a corresponding note of reservation in the bill of lading or other accompanying document. In such a case, ATOTECH is liable to pay compensation for any and all losses or damages incurred by the freight carrier as a consequence of the lack of completion. Section 254 BGB [*German Civil Code*] shall remain unaffected.
- 3.3 The freight carrier shall inspect the number of units, quantity of transported goods and the exterior condition of the packaging.
- 3.4 The freight carrier or its authorised representative shall issue a receipt for the proper and undamaged receipt of the transport goods on a bill of lading or other accompanying document provided by ATOTECH.
- 3.5 In case the freight carrier is requested to provide a written confirmation according to Subsection 3.4 above, but it is unable to carry out an inspection, the freight carrier shall issue the confirmation subject to reservation.

3.6 In case the freight carrier accepts goods for transport which have visible exterior damage, it may request that ATOTECH separately verify the condition of the goods in the bill of lading or in another accompanying document.

4. Bill of Lading/Accompanying Document

- 4.1 The freight contract is set down in a bill of lading issued by ATOTECH. The bill of lading should contain the information shown in Section 408 HGB and can include more extensive regulations as well. Should the issue of a bill of lading not be indicated, a different accompanying document (such as delivery note, cartage note, so-called "forwarding order") may be used. Bills of lading or other accompanying documents must in any case include a shipping reference.
- 4.2 If and when the freight carrier fills out a bill of lading at the recipient's request, the freight carrier is liable for any and all loss or damage resulting from the incorrect or incomplete information from the recipient.
- 4.3 An electronic document issued by ATOTECH shall also be deemed a bill of lading or other accompanying document in accordance with Subsection 4.1.

5. Loading and Discharging

- 5.1 ATOTECH shall load the goods safe for transport in accordance with pertinent legal statutes and state-of-the-art technology; the recipient shall discharge the cargo accordingly after requesting delivery. The freight carrier is obliged to ensure the operational safety of the shipment.
- 5.2 A reasonable time period (loading time, discharging time) will be made available for loading and discharging. Subject to deviating contractual agreements, a standard maximum of 2 hours for the loading and a maximum of 2 hours for the discharge will be available for a fully loaded vehicle. In case the freight carrier must wait beyond the loading times which have been agreed to or which have been defined in this Subsection 5.2 owing to reasons which are not attributable to its sphere of risk, it is entitled to request reasonable compensation (demurrage).
- 5.3 The loading period begins at the time of the agreed provision of the vehicle. If the vehicle is made available at time later than

agreed and if ATOTECH is in agreement with the delay in availability, the loading period begins when the vehicle is made available.

- 5.4 The discharging period begins at the moment in which the recipient gains power of disposition over the cargo. In case of doubt, this is the point in time at which the person who is authorised to dispose of the cargo receives the copy of the bill of lading or other accompanying document intended for this person.
- 5.5 Should the freight carrier be unable to provide the vehicle or be unable to provide it punctually at the agreed date and time, it shall notify ATOTECH without delay. ATOTECH will subsequently immediately notify the freight carrier whether it is in agreement with a later provision or if it wishes to terminate the freight contract. Should the failure to provide the vehicle or to provide the vehicle punctually be caused by the freight carrier's gross negligence or intentional conduct, it shall compensate ATOTECH for the damages it incurred as a result.

6. Dangerous Goods

- 6.1 Upon conclusion of the contract, ATOTECH shall communicate in writing or text form any and all information regarding any dangers posed by the goods. If and when the goods are dangerous within the sense of the ADR/GGVSEB, the UN number, class and packaging group of the dangerous goods in accordance with the ADR/GGVSEB as most recently revised shall be provided.
- 6.2 The freight carrier shall present the valid ADR certificate before accepting the goods.

II. Shipping, Logistics and Storage Business

An entrepreneur in shipping, logistics and storage business who is not a freight carrier will be referred to in this section as a shipping agent.

7. Obligation to Safeguard Interests and to Exercise Diligence

The shipping agent shall safeguard ATOTECH's interests and perform its services with the diligence of a prudent businessman.

8. Scope of Performance

When performing activities pursuant to a shipping contract within the sense of Sections 453 to 466 HGB, the shipping agent is required to conclude any and all contracts required for the performance of these services and to fulfil any and all instructions given in the forwarding order. It must also comply with any deviating instructions issued by ATOTECH after the award of the forwarding order, provided that they are given in written form and the agent does not immediately raise a written objection.

9. Agreement of Special Terms and Conditions

The shipping agent is authorised to agree to customary terms and conditions of business of third parties. In the relationship between the primary and intermediate shipping agent, the VBGL (contract terms of the German Road Haulage Association) shall be deemed to be the general terms and conditions of the intermediate shipping agent.

10. Order, Especially Valuable or Dangerous Goods

- 10.1 No specific form is required for the validity of orders, instructions, statements and notifications unless expressly otherwise provided in these terms and conditions of purchase. Any subsequent modifications or amendments shall be clearly marked as such.
- 10.2 ATOTECH will notify the shipping agent at the time the order is awarded if the cargo consists of dangerous or especially valuable goods. Goods which are regularly excluded from insurance cover shall also be regarded as valuable goods.
- 10.3 If the cargo consists of dangerous goods, ATOTECH will notify the shipping agent, in writing or text form, when awarding the order of the precise nature of the danger. In case the cargo consists of dangerous goods within the sense of the Act Regarding the Transport of Dangerous Goods or of other goods for which transport or storage is subject to special legal regulations related to dangerous goods, handling or disposal, ATOTECH will provide all of the information, including, but not limited to, UN number class and packaging group in accordance with the pertinent dangerous goods law, required for the proper performance of the order.
- 10.4 The shipping agent must verify the information provided according to

Subsection 10.3 for the carrier which is used, and must complement it as necessary.

- 10.5 The shipping agent must examine and document the validity of the ADR certificate when contracting in its own name and when awarding third-party contracts for transports.

11. Customs Clearance Procedures

- 11.1 The order for shipment to a destination in another country includes the order for customs clearance only in the case when transport to the destination cannot be performed without the clearance, the clearance will not be carried out by ATOTECH and ATOTECH notifies the agent of this fact.
- 11.2 The shipping agent can charge a special fee for the customs clearance in addition to the costs actually incurred. The order for the transportation of incoming shipments in bond or to deliver them free to the door will be issued upon ATOTECH's instruction. The completion of the required customs formalities and the advance payment of the duties levied by customs are permissible only after notice of the dutiable goods has been sent to ATOTECH in written or text form.

12. Packaging and Labelling Obligations

ATOTECH will label the packages clearly and permanently with the marks required for their handling in accordance with the order, including addresses, marks, numbers, symbols for handling and properties; previous labels must be removed or rendered unrecognisable.

13. Shipping Agent's Inspection Obligations

- 13.1 At interfaces, the shipping agent must:
- examine the packages for completeness and identity, for any visible damages to the surface, for the integrity of seals and fasteners, and
 - document any irregularities (e.g. in the accompanying documents or from special notification).
- 13.2 An interface is any point of transition of the packages from one legal entity to another

as well as the delivery at the end of each leg of the transport.

14. Receipt

- 14.1 Upon ATOTECH's request, the shipping agent will issue a certificate of receipt. In this certificate of receipt, the shipping agent only confirms the number and type of packages, but not their content, value or weight. In the case of wagonloads and similar circumstances, the certificate of receipt will not contain any confirmation of gross weight or other indications of the quantity of the goods in case of doubt.
- 14.2 The shipping agent shall request from the recipient a certificate of receipt for the packages specified in the order or other accompanying documents as proof of delivery. Should the recipient refuse to issue a certificate of receipt, the shipping agent shall obtain instructions. If the goods have already been discharged at the recipient's premises, the shipping agent is entitled to retake possession. The shipping agent shall immediately notify ATOTECH of this step, in writing or text form.

15. Instructions

- 15.1 Any instructions issued with regard to the goods will remain authoritative for the shipping agent until they have been revoked by ATOTECH.
- 15.2 In the absence of adequate or performable instructions, the shipping agent may act in accordance with its conscientious judgement.

16. Freight Payment, Collect on Delivery

- 16.1 Notification by ATOTECH that the order is to be processed freight forward does not affect ATOTECH's obligation with respect to the shipping agent to bear the costs of the compensation and any other expenditures. Subsection 26.1 applies to the invoicing via the shipping agent.
- 16.2 Cash on delivery or payments on COD shipments shall be requested according to ATOTECH's written instructions before the handover of the goods to the recipient. All costs incurred as a result of the failure to follow instructions from ATOTECH shall be borne by the shipping agent.
- 16.3 Notification from ATOTECH that the order is to be processed freight forward does not

entitle the freight carrier or shipping agent to surrender the goods solely against payment of the freight costs and other ancillary costs. Doubtful issues shall be clarified with ATOTECH.

17. Obstacles

- 17.1 Within the scope of its obligation to exercise diligence, the shipping agent shall review and point out to ATOTECH any legal or official obstacles to the shipment (e.g. restrictions on imports and exports). However, in case the shipping agent, as a representative for freight carriers or during public announcements or contractual negotiations, has created the impression that it has special knowledge of specific types of business transactions; it shall be obliged to fulfil the above-mentioned review and notification obligations.
- 17.2 ATOTECH shall immediately be notified, in writing or text form, of any obstacles to delivery, delays in running time and disruptions to the transportation and it shall be asked to issue instructions.
- 17.3 Obstacles to delivery, delays in the running time or any incident which would interrupt the scheduled course of transport shall also be recorded and updated as an incident in iSea or on another internet-based platform on which the contract was concluded.

18. Delivery

Delivery is made, in discharge of the debt, to any person present in the recipient's place of business, unless there are legitimate doubts regarding the person's authorisation to accept delivery.

19. Storage

- 19.1 The storage and any intermediate storage will take place, at the shipping agent's discretion, in its own or in third-party frost-free storage spaces providing conditions appropriate to the requirements of the goods. In case the shipping agent stores goods in a third-party warehouse, it shall immediately notify ATOTECH in writing of the party's name and the storage location or, if a warehouse bond has been issued, it shall note this information on the bond.
- 19.2 The storage of dangerous goods must be in compliance with legal statutes.

- 19.3 ATOTECH is entitled to inspect the storage spaces or to have them inspected. The shipping agent shall ensure that the opportunity for inspection is provided.
- 19.4 In case ATOTECH removes goods (e.g. withdrawal of samples), the shipping agent may request that the number, weight and characteristics of the goods be determined jointly with ATOTECH.
- 19.5 Storage, including intermediate storage, on vehicles during the winter months is prohibited.

20. Shipping Agent's Information and Surrender Obligation

- 20.1 The shipping agent must send the required messages to ATOTECH, provide, upon request, information on the status of the transaction, submit a report after its completion and disclose the costs.
- 20.2 The shipping agent must surrender to ATOTECH everything it has received for the performance of the transaction and which it has obtained from the management of the transaction.

21. Shipping Agent's Expenses

- 21.1 The shipping agent is entitled to reimbursement of expenses which it incurs as a result of the performance of the forwarding order from ATOTECH.
- 21.2 Offers submitted to ATOTECH on iSea or other internet-based portals are binding; in the event of EXW or FOB deliveries, the invoice, translated into the recipient's currency, must be submitted to the ATOTECH office which issued the order.
- 21.3 Any costs in deviation from those shown in the offer may be billed only after consultation with ATOTECH.

III. Liability

22. Liability from Freight Contracts and Shipping Contracts

- 22.1 The freight carrier and the shipping agent who contracts the transport of the goods in its own name are liable in accordance with legal statutes and the provisions of the pertinent international treaties for any loss or damage suffered because of the loss or

damage of the goods during the period of time from their acceptance for transport to the time of delivery. This provision also applies to loss or damage occurring during intermediate storage necessitated by the transport.

- 22.2 The freight carrier and the shipping agent are accountable for their vicarious agents, subcontractors and any other third-party entrepreneurs to the same extent as for themselves. ATOTECH is liable for any loss or damage for which it or its vicarious agents are accountable during the performance of the order.
- 22.3 Should the freight carrier or shipping agent have claims against a third party as a result of an incident of loss or damage, it shall, upon request, assign the said claims to ATOTECH, unless the freight carrier or shipping agent assumes responsibility for the pursuit of the claims for the account and at the risk of ATOTECH, in accordance with separate written agreement. The assignment does not discharge the freight carrier or shipping agent's own responsibility.
- 22.4 Should the freight carrier or shipping agent be obliged to provide compensation because of the loss of or damage to goods, the damage compensation will, pursuant to Section 431 (1) HGB and Section 504 (1) HGB be limited to a maximum of 40 billing units for each kilogram of gross weight or, to the extent that the value is to be determined by piece or unit pursuant to Section 504 (1) HGB, to 1,000 billing units for each and every piece or unit.
- 22.5 Should ATOTECH be liable, regardless of fault, pursuant to Section 414 HGB, compensation for any damages or loss shall be limited to a maximum of 8.33 billing units for each kilogram of gross weight.

IV. Insurance

23. Liability Insurance

- 23.1 The freight carrier and shipping agent shall carry adequate insurance cover for any damages or loss, including environmental pollution, incurred by third parties.
- 23.2 Furthermore, ATOTECH is a waiver customer worldwide.

V. Confidentiality

The freight carrier and shipping agent may not disclose, without ATOTECH's express written consent, that they have a business relationship with ATOTECH or inform third parties about ATOTECH's orders. They may make the confidential information available to its employees and its subcontractors who are bound by professional or contractual confidentiality obligations, to the extent that they work on the processing or the fulfilment of ATOTECH's engagement and reasonably need to know the confidential information. The freight carriers and shipping agents shall also, in writing, oblige its employees and its subcontractors who are working on the processing or the fulfilment of ATOTECH orders, to keep information confidential, unless they have already been obliged to maintain such confidentiality through their contracts to the same extent as the freight carrier and shipping agent are obliged with respect to ATOTECH. The freight carrier and shipping agent shall warrant that each person, who may receive confidential information in accordance with this section, will comply with the provisions contained herein. The duty to maintain confidentiality shall also apply to all knowledge, obtained in the course of the cooperation, concerning ATOTECH's organization, development and other structures and/or concerning the content of ATOTECH orders, especially as to prices and conditions. This confidentiality obligation shall survive the termination or expiration of the contract.

VI. Safety in the Supply Chain

The freight carrier and the shipping agent agree to ensure that

- all products which, at ATOTECH's request, are stored, transported, delivered to ATOTECH or accepted by ATOTECH,
- are stored, processed and loaded at safe operating facilities and at safe trans-shipment locations and
- are protected from unauthorised access during storing, processing, loading and transport;
- the personnel assigned to storage, processing, loading, transport and acceptance of such products are reliable;
- business partners acting upon request of the freight Carrier and shipping Agent have been instructed that they must also

initiate appropriate measures to secure the supply chain as described above.

VII. Compliance

24. Compliance

24.1 The freight carrier and shipping agent agree to ensure that no person or entity contracted to perform services pursuant to the order appears on any EU or UN embargo list. This applies in particular to the lists of sanctioned entities of the EU pursuant to the Anti-Terrorism Council Regulations (EC) No. 2580/001 and (EC) No. 81/2202. The freight carrier and shipping agent will exempt ATOTECH from any claims resulting from a violation of this obligation. The mere suspicion that any such listed persons or entities have been engaged entitles ATOTECH to cancel specific orders.

24.2 ATOTECH is committed to the ethical values and principles expressed in the Atotech Code of Conduct. They include in particular, but are not limited to, compliance with statutory provisions and observance of fundamental international standards, environmental protection and occupational safety practices, respect for human rights and the rules of free competition and rejection of any and every form of corruption, whether public or private, active or passive, as well as the avoidance of conflicts of interest.

The freight carrier and the shipping agent confirm that they are familiar with the contents of ATOTECH's Code of Conduct and uphold ethical values and principles equivalent to those expressed in this Code of Conduct. In addition, the freight carrier and shipping agent will do their best to promote these values and principles and to ensure that their own suppliers comply with them. The Atotech Code of Conduct is available in the download area under www.atotech.com/our-values.

24.3 ATOTECH reserves the right to perform, itself or through a duly authorized representative, audits at the freight Carrier's and shipping Agent's premises of compliance with the above stated values and principles, subject to written notification. The freight Carrier and shipping Agent agree to fully cooperate in such audits. ATOTECH will keep the

information disclosed during the audit confidential and use it only for the purpose of the audit.

24.4 ATOTECH is entitled to terminate this Agreement in writing without prior notice, in case the freight Carrier and shipping Agent significantly violate the above stated values and principles or unreasonably hinders the audit as provided above and do not implement measures to reduce the impact of the violation within a reasonable period. There is significant violation of the values and principles particularly in cases of disregard for internationally enshrined human rights, for example child labor, discrimination as well as violations of statutory labor law, environmental and industrial safety rules and anticorruption rules.

24.5 In view of their responsibility for the health and safety of its employees in the workplace, the freight Carrier and shipping Agent undertake to reduce the negative effects of their activities on human beings and the environment continuously and with lasting effect. To this end, the Freight Carriers and Shipping Agent shall, within the scope of their possibilities, set up and develop a management system in compliance with ISO 14001.

24.6 Personal data of ATOTECH employees which becomes known to the freight carrier or shipping agent during contract negotiations or execution may only be processed within applicable statutory data protection provisions.

The freight carrier and shipping agent must adjust their internal organization in such a way that it meets the legal requirements on data protection. The freight carrier and shipping agent must take, in particular, appropriate technical and organizational measures to secure the personal data against misuse and loss.

Persons who process personal data for the freight carrier or shipping agent must be made familiar with the regulations on data protection and must be bound by data secrecy.

VIII. Miscellaneous

25. Documents

25.1 When performing cross-border transports, the shipping agent or freight carrier will issue a certificate of delivery for tax-exempt

- delivery within the Community (transports within the EU) or an export certificate for turnover tax purposes (transport outside of the EU) for ATOTECH. The certificates shall be attached to the relevant bills of lading and/or other accompanying documents.
- 25.2 All of the documents related to the transport must as appropriate be uploaded onto the iSea portal or the pertinent internet-based portal where the order was concluded, at the latest on the day of the ETD. In particular, this information includes:
- Forwarding order showing ATOTECH shipper reference
 - Dangerous goods declaration
 - Invoices showing ATOTECH shipping marks
 - HAWB/AWB showing the costs to be collected on delivery and ATOTECH shipper reference
 - B/L order showing ATOTECH shipper reference
 - Shipping agent's invoices to the recipient showing ATOTECH shipper reference
- 26. Billing and Payment**
- 26.1 The freight carrier or shipping agent's invoices must be issued to the ATOTECH branch office which issued the order. **Unless otherwise agreed, in the case of invoices for deliveries commissioned by ATOTECH and if the deliveries are made to another company of the ATOTECH Group, particularly abroad, such invoices shall be addressed and issued to the company of the ATOTECH Group, which is the addressee of the delivery. Should the company of the ATOTECH Group not pay the invoice within the agreed payment term; the invoice will be issued to ATOTECH according to Subsection 1.3.**
- 26.2 Invoices issued to ATOTECH or to the company of the ATOTECH Group are due and payable 30 days after receipt, at the earliest 30 days after invoice date, unless otherwise agreed in specific cases.
- 26.3 Invoices issued to ATOTECH or to the company of the ATOTECH Group must include the ATOTECH shipper reference (source: forwarding order, packing list, internet-based portal such as iSea). If the shipper reference is missing, ATOTECH will be unable to review the invoice and the invoice will consequently not be paid until the shipper reference has been added.
- 27. Pallets, Loading Aids and Packing Materials**
- 27.1 Unless otherwise agreed, the freight carrier is not obliged to provide loading aids and packing materials; in particular, it is not obliged to provide pallets.
- 27.2 Any pallets or loading aids provided by ATOTECH shall be returned immediately or their value shall be reimbursed.
- 28. Place of Performance**
- The place of performance for the freight carrier or shipping agent's obligations is the place of use of the specific contract.
- 29. Applicable Law**
- All contracts pursuant to these terms and conditions are governed by German law, excluding the application of International Private Law. This rule does not apply to compulsory laws and regulations.
- 30. Venue**
- The venue for all claims arising from a contract pursuant to these terms and conditions is Berlin. However, ATOTECH retains the right to select the seat of the freight carrier or shipping agent as the place of jurisdiction.