

General Terms and Conditions of Sale and Delivery (Systems) of Atotech Deutschland GmbH & Co. KG

I. Scope of Application

1. Our deliveries of merchandise and performance of services are conducted solely and exclusively on the basis of these General Terms and Conditions of Sale and Delivery. We hereby object to any references by the customer to contrary terms and conditions of purchase. These General Terms and Conditions of Sale and Delivery also apply to any and all similar future business transactions. Any deviation from these General Terms and Conditions of Sale and Delivery is subject to our express written consent, even if we carry out the delivery without reservations, in knowledge of the customer's terms and conditions of purchase.
2. These General Terms and Conditions of Sale and Delivery apply solely in relation to entrepreneurs pursuant to Sec. 310 para. 1, Sec. 14 German Civil Code, legal entities under public law and special funds under public law.
3. These General Terms and Conditions of Sale and Delivery apply to the delivery and installation of equipment and systems (hereinafter "Systems"). Maintenance and repair services as well as the performance of other services relating to Systems, including modification and retrofitting of Systems, are subject to our General Terms and Conditions of Delivery (Industrial Services). The sale and delivery of chemical products, anodes, spare parts and devices are subject to our General Terms and Conditions of Sale and Delivery (Chemistry).

II. Offers, Orders, Conclusion of Contract

1. Our offers are non-binding; they represent requests to the customers to submit to us an offer for the conclusion of a contract. Any and all documents and information related to the offer such as System information, including specifications and acceptance criteria, pictures, drawings, plans and system descriptions are merely approximate, unless explicitly designated by us as binding. They constitute solely an agreement on characteristics, and do not represent guaranteed characteristics.
2. The contract is concluded upon placement of a purchase order by the customer (offer) and our acceptance. Our acceptance is indicated by a written confirmation, by the dispatch of the ordered Systems or by installation of the Systems.
3. We reserve any and all rights to our know-how related to the Systems, processes, control devices and production with these Systems and processes (hereinafter "Know-how"). Unless we have given our prior written consent, the customer is not entitled to make public or to disclose to third parties the Know-how described in our offers. By concluding the contract,

the customer does not acquire any rights to our Know-how, with the exception of the right to use the Know-how in conjunction with the operation of the Systems we have delivered.

4. We retain any and all rights of ownership and copyrights to samples, cost estimates, drawings and other information of tangible and intangible nature, including those in electronic form; they may not be made accessible to third parties. Insofar as orders are not placed with us on the basis of our offers, our drawings and other documents must be promptly returned to us without our express request.
5. Insofar as we have agreed with the customer upon partial deliveries, each partial delivery shall be deemed to be a separate transaction. Complaints regarding a partial delivery do not influence the further processing of an order.

III. Prices

1. Unless otherwise agreed, our prices are shown "ex works", excluding value-added tax and packaging, which will be billed separately.
2. Our prices are based on the costs in effect at the point in time of the order. If and when the costs, in particular costs for production materials, energy, operating materials, wages and salaries, change after the submission of the order, we are entitled to modify our prices accordingly.

IV. Delivery, Cooperation

1. Compliance with the delivery period is subject to the timely receipt of any and all documents to be provided by the customer, of necessary approvals and releases, the fulfilment of the agreed conditions of payment and any and all other obligations of the customer. If these pre-conditions are not fulfilled in good time, the delivery period shall be extended by a reasonable period; this shall not, however, have any effect on the agreed payment dates.
2. If we deliver Systems without having assumed their installation, we will be deemed in compliance with the delivery date if the consignment has been dispatched from our supplying facility within the agreed delivery period. If and when the dispatch is delayed owing to reasons beyond our control, we will be deemed in compliance with the delivery period provided that readiness for shipment has been notified within the agreed delivery period.
3. Unforeseeable events such as force majeure, war, natural disasters, lock-outs, strikes, transport disruptions, governmental orders and court decisions, embargos as well as other unavoidable disturbances beyond our control release us from our obligation to deliver and render services for the duration of the events. We are not obligated in such cases to procure the Systems from third parties. Any agreed periods and deadlines will be extended by the duration

of the disruption; the customer will be notified by reasonable means of the disruption.

4. If we are in default of delivery, the customer may rescind the contract solely if we are accountable for the delay or if, in the case of Art. IV. para. 3., the delay exceeds 3 months.
5. The customer shall at his own expense do everything necessary to ensure that the installation work can begin on time and be carried out smoothly under normal working conditions. Unless otherwise agreed, the customer will provide at his expense: necessary specialist and assistant personnel as well as tools, aids and lifting gear; excavation, foundation and construction work, chiselling, scaffolding and painting, including building materials; industrial power, water and waste water with connections to the place of use as well as heating; sufficiently large, suitable and lockable rooms for the storage of equipment, parts, other materials and tools for the performance of work and for the stay of our staff as well as suitable sanitary facilities; protective clothing and protective apparatus necessary due to special circumstances and not customary to our line of business.
6. We are responsible for observance of safety and other regulations not generally applicable in the electroplating industry as well as of foreign regulations only to the extent that such observance has been expressly agreed in writing. During installation supervision, our responsibility is limited to the instruction and supervision of the personnel provided by the customer; we are not responsible for the qualification and actions of such personnel. If and when equipment or parts have been provided by the customer, we are not responsible for the quality and suitability of such equipment or parts.

V. Shipping, Transfer of Risk

1. Unless otherwise agreed, deliveries are made "ex works". Insofar as we undertake shipping, we will choose the route and method of shipping, but take into consideration express wishes of the customer where possible. The customer will bear any additional costs which are incurred.
2. The risk for accidental loss and accidental worsening of the Systems transfers to the customer when the consignment is handed over to the transport company or, in the event that the Systems are collected by the customer, when the Systems are made ready for collection. If and when a formal acceptance is to be performed, the risk transfers concurrently with the acceptance. If and when shipment is delayed at the customer's request, the risk transfers to him upon notification of readiness for shipment. Subject to the regulations in Art. VI., the customer is obligated to insure the products at replacement value for the period between the transfer of risk pursuant to this Art. V. para. 2 and the transfer of ownership pursuant to Art. VIII.
3. If the customer is in default of accepting our deliveries, we shall be entitled to bill him for any loss or damage, including additional costs (e.g. storage

charges) incurred by the delay. The above provision also applies in the event that the customer has failed to perform an act of collaboration.

VI. Insurance, Transport Damages, Duty of Inspection and Notification

1. We will insure the Systems being dispatched at the customer's expense, without any special instructions from the customer, against transportation risks, including normal breakage.
2. The customer shall inspect the Systems immediately upon receipt. The customer shall notify the transport company of any complaints of transport damage immediately following delivery, sending a copy to us, and shall act jointly with the transport company to create a written record of the damage.
3. In the case of the delivery of Systems without their installation, the customer must notify us of any visible defects not caused by transport within 5 working days after receipt of the Systems, giving a detailed description of the defects which are the subject of the complaint. Notification of hidden defects must be submitted to us immediately upon their discovery.

VII. Payment Conditions

1. Unless otherwise agreed, payments are due as follows:

30%	after conclusion of the contract
60%	after readiness for shipment
10%	after electro-mechanical acceptance

Payments shall be effected within 14 days of receipt of the invoice without any deductions.

2. If payment is effected by letter of credit, it is mandatory that the letter of credit be issued in accordance with our instructions and that we have approved the wording. The letter of credit must be issued no later than the scheduled commencement of our performance in order to avoid delays.
3. If and when it becomes apparent after conclusion of the contract that our claims are at risk, we are entitled to refuse performance and — as appropriate, after setting of a deadline — to rescind the contract (Sec. 321 German Civil Code).
4. The customer does not have any right to offset claims unless the customer's counterclaims are undisputed or have been finally adjudicated. The customer does not have a right of retention unless the customer's counterclaims are based upon the same contractual relationship and are either undisputed or have been finally adjudicated.

VIII. Retention of Title

1. We hereby retain title to all Systems we have delivered until payment in full of all of our claims from the business relationship (main claim and ancillary claims) and settlement of any current account debit of the customer in our favour. This even applies if the purchase price is paid in respect of particular deliveries identified by the customer and performed by us.
2. The customer may not dispose of the Systems or pledge the same or provide them as securities. The customer is obligated to inform us immediately of any seizure by third parties, in particular of a legal execution, regarding the Systems under retention of title, and in the case of a legal execution to lodge an objection in our name with the creditor seeking execution.
3. If the customer breaches any of his obligations owed to us, in particular if he fails to make a due payment, or if a substantial deterioration in his financial situation should become apparent, we are entitled, in accordance with statutory provisions, to rescind the contract and/or to demand the return of the Systems under retention of title. By demanding the return of the Systems we do not at the same time rescind the contract. Our right to rescind the contract is subject to having unsuccessfully set the customer a reasonable deadline for payment except in cases where such deadline is dispensable pursuant to statutory provisions.
4. The customer is obligated to adequately insure, at his expense, the Systems we have delivered subject to retention of title against insurable damage or loss (fire, water, theft, etc.). Here and now, the customer assigns to us his claims from insurance policies. We hereby already accept such assignment.

IX. Acceptance

1. If formal acceptance is required for our performance, the following provisions apply: If and when we install Systems for the use of our chemical products, the acceptance will be conducted following the functional test and the qualification as described in the offer. After the functional test, we are entitled to request partial acceptance from the customer (electro-mechanical acceptance). If and when we install Systems without agreement on the use of our chemical products, the customer shall accept the System after completion of the functional test (electro-mechanical acceptance).
2. A protocol will be prepared regarding the performance of the functional test ("Protocol of Electro-Mechanical Acceptance") and regarding any required qualification ("Protocol of Qualification").
3. The qualification is carried out by the customer's personnel in accordance with our instructions. The customer will bear the cost of his personnel and of the required operating materials and feedstock. He is responsible for the operation of the System during the qualification phase.

4. Any production performed by the customer using the Systems before the acceptance protocols have been signed will be at the customer's own risk.

X. Customer's Rights in Case of Defects

1. If and when Systems are defective, the customer is entitled to the statutory rights regarding defects, subject to the following terms:
 - (a) We initially have the right, at our option, either to remedy the defect or to deliver a System free of defects to the customer (hereinafter "Subsequent Performance").
 - (b) If and when the Subsequent Performance fails or is unacceptable for the customer, the customer may either remedy the defect himself and request reimbursement of the necessary expenses or, provided that statutory prerequisites have been met, request reduction of the purchase price. The rescission of the contract concluded with us is excluded.
 - (c) Art. XI. below applies with regard to damage claims and reimbursement for expenditures incurred in vain because of a defect.
2. Claims for defects do not exist in case of only minor deviation from the agreed quality, in case of only minor impairment of the usability, in case of normal wear and tear, for damage which occurs after the passing of the risk due to improper handling, excessive use or inadequate operating materials, poor construction work, unsuitable subsoil or for damage which occurs owing to other unusual external influences which are not taken into account under the contract. If the customer or third parties undertake improper modifications or repair work, there are also no claims due to defects for these and the resulting consequences.
3. Claims of the customer as to expenses incurred for his own performance of repairs, in particular, but not limited to, transport, infrastructure, labour and material costs, are excluded insofar as the expenses are increased because the Systems were subsequently relocated to a site other than the customer's place of business, unless that relocation corresponds to the intended use of the Systems.

XI. Damage Claims

1. We are liable pursuant to statutory provisions for damage or loss and reimbursement of expenses (hereinafter: "Claims for Damages") of the customer based on wilful intent and gross negligence. In case of ordinary negligence, we will only be liable for damages incurred by the breach of a cardinal contractual obligation (i.e. an obligation which must be fulfilled to permit the proper execution of the contract and which the other party to the contract can reasonably expect to be fulfilled) and for damages resulting from death, physical injury or harm to human health. In the event of gross negligence and in case of a breach of cardinal contractual obligations, our li-

ability shall however be limited to foreseeable, typically arising damages or loss.

2. The above limitations of liability are not applicable to Claims for Damages of the customer pursuant to the Product Liability Act or to cases in which we have maliciously concealed a defect or a guarantee of quality had been agreed upon.

XII. Limitation Period

1. The customer's Claims for Damages are subject to a limitation period of twelve months following delivery of the System; if formal acceptance is required, the limitation period begins after electro-mechanical acceptance. However, this limitation period is to be replaced by statutory provisions in cases in which we have maliciously concealed a defect or agreed on a guarantee of quality. This also applies when the System we delivered constitutes an edifice.
2. The limitation period stated above is also applicable to the customer's Claims for Damages resulting from defective Systems, unless the statutory limitation provisions provide for a shorter limitation period (Secs. 195, 199 German Civil Code). In cases of Claims for Damages based on wilful intent or gross negligence, damages resulting from death, physical injury or harm to human health and damages pursuant to the Product Liability Act, the statutory limitation periods apply exclusively.

XIII. Use of Software

1. To the extent that software is included in the scope of our delivery, the customer is granted a non-exclusive right to use the delivered software, including its documentation. The software is provided for use on the delivered Systems. Use of the software on other equipment or systems is prohibited.
2. The customer may replicate, amend, translate the software or convert the object code into source code solely within the legally permissible scope (Secs. 69 a et seqq. German Copyright Act). The customer promises not to remove or modify manufacturer's information.
3. We retain any and all other rights to the software and its documentation including any copies.

XIV. Code of Conduct, Environmental Protection, Data Protection

1. We are 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

Atotech Code of Conduct is available in the download section at www.atotech.com/our-values.

2. In view of his responsibility for the health and safety of his employees at the workplace, the customer covenants to undertake continuous and sustained measures to reduce detrimental effects of his activities on people and the environment. As far as his circumstances permit, the customer will establish and evolve a management system in accordance with ISO 14001.
3. Personal data of our employees which becomes known to the customer during contract negotiations or execution may only be processed within applicable statutory data protection provisions.

XV. Final Provisions

1. The customer may assign his rights under this contract to third parties solely with our prior written consent.
2. Place of performance for the sale of Systems is the pertinent dispatching office, otherwise the installation site of the System.
3. Exclusive venue for any and all disputes arising from the contractual relationship with the customer is our registered office in Berlin. We reserve, however, the right to select alternatively the site of the customer's place of business as venue.
4. The contractual relationship is governed by German law, excluding application of international private law and the U.N. Convention on the International Sale of Goods (CISG).