

# Change of Purchase Order



Atotech USA, Inc., 1750 Overview Drive, 29730 Rock Hill, SC

Atotech Deutschland GmbH  
Industriestraße 69  
90537 FEUCHT  
GERMANY  
Fax : 9128-725-255

3739026

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PO Date: 05/10/2010

Last Revision:  
06/29/2010

Contact Person/Telephone No./e-mail  
Greg Merritt  
803-817-3653  
greg.merritt@atotech.com

Please deliver to:

INTEL CORPORATION  
5000 W CHANDLER BLVD  
CHANDLER AZ 85226  
USA

Date Required 09/27/2010

Incoterms 2000: FCA DESIGNATED PER RELEASE  
Terms : Special Terms

Funds : EUR

Please confirm

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Item	Material	Description	Quantity/Unit
00001	US154006801	SBP DESMEAR LINE	1 PC

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Price: 1.366.920,00 EUR/ 1 PC Value : 1.366.920,00

Delivery date 27.09.2010

Your country of origin DE

\*\*\* Date of arrival changed \*\*\*

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00002	US154006801A	P-LINE EXTENSION UPGRADE	1 PC
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Price: 43.200,00 EUR/ 1 PC Value : 43.200,00

Delivery date 27.09.2010

Your country of origin DE

\*\*\* Date of arrival changed \*\*\*

To assure prompt payment, show purchase order number on all invoices, correspondence, and shipping packages. Mail shipping documents and invoices to receiving location or as directed.

By shipping the above goods or by acknowledging receipt of this order, you agree to the terms and conditions of sale set forth on the face hereof.  
Any different or additional terms in your acceptance of this offer are hereby rejected.



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Item	Material	Description	Quantity/Unit
00003	US154006801B	ON-LINE ANALYZER FOR DESMEAR	1 PC

Price: 133,110.00 EUR/ 1 PC Value : 133,110.00

Delivery date 27.09.2010

Your country of origin DE

\*\*\* Date of arrival changed \*\*\*

Total net value w/o tax 1,543,230.00 EUR  
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PLANT: ROCK HILL (RH)

ALL BULK TANKER DELIVERIES MUST BE BETWEEN 7:00 AM AND 1:00 PM. EARLY DELIVERIE  
PREFERRED. QUESTIONS CAN BE DIRECTED TO PURCHASING SUPERVISOR OR  
SHIPPING/RECEIVING SUPERVISOR AT OUR MAIN PHONE NUMBER 803-817-3500.

RECEIVING HOURS: 7:00 AM TO 2:00 PM  
DELIVERY APPT NOT REQUIRED

TELEPHONE: 803-817-3598

PLEASE INCLUDE PICKLISTS WITH SHIPPING DOCUMENTS.

PLEASE IDENTIFY PALLETS CONTAINING MIXED  
PRODUCTS AND MIXED LOT NUMBERS WITH A STICKER.

This document was sent automatically and is valid without any signature.

Atotech USA Inc.

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## PURCHASE ORDER TERMS AND CONDITIONS hereto.

1. **PATENT INDEMNITY:** Seller warrants that the Products and the sale or use thereof by Buyer or any transferee will not infringe any U.S. or foreign Letters of Patent, copyrights, trade secrets or other intellectual property rights. Seller shall indemnify, defend, protect and save harmless Buyer, its successors and assigns, against all suits at law or in equity and from all damages, claims, demands and costs for actual or alleged infringement. Seller shall replace or modify infringing Products with comparable Products of same form, fit, and function so as to remove the source of infringement, subject to Buyer's Research and Development approval, and shall extend this provision thereto. The foregoing indemnity shall not apply to items furnished Buyer in accordance with a design furnished by Buyer.
2. **PRICING:** Material on this order is to be furnished at a price or prices no higher than previously charged without written consent from us, unless such price or prices have been quoted and accepted. Amounts due shall be subject to set-off, counter-claim, and recoupment. If Seller quotes or sells at lower prices similar goods in similar quantities, such lower prices shall be substituted for the prices specified herein.
3. **SHIPMENTS:** Shipping instructions as printed on this order must be carefully followed, and any errors necessitating extra expense will be for account of Seller.
4. **PACKAGING AND FREIGHT:** Charges and freight terms specified on order govern.
5. **PERFORMANCE OF WORK ON PREMISES:** If this order covers the performance of labor on Buyer's premises, Seller agrees to:
  - (1) comply with Buyer's Substance Abuse Policy, the Drug-Free Workplace Act of 1988, Buyer's Health Safety and Environmental policies, and applicable health, safety, security, and confidentiality rules, policies, or procedures at Buyer's site; and
  - (2) furnish certificates satisfactory to Buyer prior to commencing such work showing that adequate workman's compensation, public liability, general liability and property damage insurance is carried. Any policy providing coverage shall be endorsed to name Buyer as an additional insured thereunder and shall be primary to any other coverage.
6. **WARRANTIES:** Seller warrants that:
  - (1) all goods and services supplied under this order shall (a) conform to all specifications, drawings, samples or other descriptions requested or referenced by Buyer; (b) be delivered and performed in a safe and responsible manner; (c) be of quality and workmanship consistent with the highest standards of the trade; (d) be of uniform grade and consistency; (e) be merchantable and free from all defects; (f) be fit for the particular purposes intended; (g) be free from liens and encumbrances with good title conveyed; and (h) be manufactured, contained, packaged, labeled, transported or otherwise provided in accordance with all applicable laws, regulations, permits, and industry standards.
  - (2) all Products will be produced, sold, and delivered in compliance with all applicable local, state, and/or federal laws, rules, and regulations, including, without limitation, where applicable, Toxic Substances Control Act (including report provisions); Fair Labor Standards Act of 1938, Federal and State Department of Transportation Regulations, including packaging regulations; The Occupational Safety and Health Act of 1970, as amended; and other safety or health laws; Executive Order 11246 (Equal Employment Opportunity); Affirmative Action for Disabled Veterans and Veterans of the Vietnam Era (41 CFR 60-250); Affirmative Action for Handicapped Workers (41 CFR 60-741); Federal Procurement Regulations relating to Minority Business Enterprises; the Clean Air Act (42 USC 1857) and the Federal Water Pollution Control Act (33 USC 1251). Seller shall not comply with any foreign boycott laws or requirements which are in violation of any federal or state law, rule, or regulation.
  - (3) no article supplied hereunder is adulterated or misbranded within the meaning of the Federal Insecticide, Fungicide and Rodenticide Act, as amended, or the Federal Food, Drug and Cosmetic Act, as amended, or is an article which may not under the provisions of Section 404, 505 or 510 of the Federal Insecticide, Fungicide and Rodenticide Act, as amended, be introduced into interstate commerce, and that Seller is registered under Section 510 of said Act, if applicable.
7. **INSPECTION:** Buyer shall have the right to inspect and test any goods either before or after receipt and/or payment, so long as such inspection and tests are made within a reasonable time or as provided in the specifications. Seller shall pay the cost of inspection and testing of goods rejected for cause as well as all transportation, storage and other charges thereon. Any rejected goods shall be held at Seller's risk.
8. **TAXES:** The prices stated herein shall constitute the entire consideration to Seller. Seller assumes responsibility for all taxes and duties (except those specifically imposed upon the Buyer) payable to any city, state, Federal or other government authority which have to do with or affect the goods herein ordered and Seller shall indemnify and hold harmless Buyer against any liability for such taxes or duties as well as any legal fees or costs incurred by Buyer in connection therewith.
9. **DELIVERY AND CANCELLATION:** Time and rate of delivery are of the essence. Buyer reserves the right to cancel all or any part of this order at any time with or without cause. Where delivery is not made by specific date or Buyer has reasonable grounds to believe it will not be so made, Buyer may charge Seller for any loss by reason of such cancellation. Where cancellation or termination is made without cause, Buyer's liability shall be limited to payment for goods delivered and services rendered through the date of termination.
10. **CONTINGENCIES:** Neither Seller nor Buyer shall be liable for any damages for delays or failures to deliver, or take, goods covered by this order due to contingencies beyond its reasonable control, irrespective of the nature thereof. This includes any practical inability to use the goods or services purchased hereunder. The impeded party shall give the other party prompt notice detailing the cause and the estimated duration of such cause. Buyer may elect to extend the period for delivery of goods and rendering of services by the period of delay resulting from such causes or to reduce the quantity of goods ordered hereunder by the deliveries or portions thereof omitted during such period; or if such causes continue for more than thirty (30) days, Buyer may terminate this order or the contract formed upon its acceptance.
11. **WAIVER:** If this order covers the design and construction of equipment by Seller, the review or approval of Seller's drawings or other material by Buyer shall not relieve Seller of responsibility for complying with the specifications and other conditions of this purchase order, nor shall waiver of any breach of these conditions be construed as a waiver of any other breach.
12. **MODIFICATION AND CHANGES:** This is the entire agreement between the parties with respect to the goods covered hereby, and all modifications or changes must be in writing signed by the parties.
13. **ASSIGNMENT:** Seller may not assign its rights or delegate its performance under this agreement without the prior written consent of Buyer, and any attempted assignment or delegation without such consent shall be void.
14. **IMMIGRATION CONTROL:** If this covers the performance of labor for Buyer or on its premises, Seller certifies that it is in compliance with the Immigration Reform and Control Act of November 6, 1986, which is incorporated herein by reference, and agrees that it shall maintain compliance with said Act while any such labor is performed pursuant to this order.
15. **ACCEPTANCE:** Seller's commencement of work on such goods, acknowledgement of this order, or shipment of such goods, whichever occurs first, shall be deemed an effective mode of acceptance of Buyer's offer to purchase contained in this particular order. Any acceptance of this purchase order is limited to acceptance of the express terms of the offer contained on the face and back hereof and any attachments hereto. Any proposal for additional or different terms or any attempt by Seller to vary in any degree any of the terms of this offer in Seller's acceptance is hereby objected to and rejected. If this purchase order shall be deemed an acceptance of a prior offer by Seller, such acceptance is limited to the express terms contained on the face and back hereof and any attachments hereto. Neither course of performance, course of dealing, usage of trade nor oral promise shall be used to explain, qualify or supplement the terms of this order.
16. **INDEMNIFICATION:** Seller shall defend, indemnify, and hold harmless Buyer from and against all claims, damages, losses, royalties, fines, costs, liabilities, and expenses (including attorneys' fees) arising out of or resulting in any way from any defect in the material or services purchased hereunder, from Seller's negligence; from any breach hereunder; from Seller's breach of warranty; or from violation or alleged violation by Seller of any federal, state, or local law; from any environmental or pollution damage arising out of or in connection with Seller's performance of this order; or from any act or omission of Seller, its agents, employees or subcontractors. This indemnification shall be in addition to the warranty obligations of Seller.
17. **CONFIDENTIALITY:** This Purchase Order, the items ordered, quantity, specifications, and price shall be deemed confidential and information not necessary for the completion of the order shall not be revealed by Seller to any third party unless permission is first obtained in writing from Buyer.
18. **CHANGES BY SELLER:** Seller agrees to maintain strict controls to assure that neither any design, material, part, process, procedure, tooling or test equipment shall be altered, redesigned or replaced by any other design, material, part, process, procedure, tooling or test equipment, nor shall the items be produced at any other than the Seller's original facility which produced the acceptable items, without the written approval of the Buyer.
19. **DISPUTES:** The parties shall attempt in good faith to resolve any dispute arising out of or relating to these terms and conditions promptly by negotiation. All reasonable requests for information made by one party to the other will be honored. All negotiations pursuant to this clause are confidential and shall be treated as compromise and settlement negotiations for purposes of applicable rules of evidence. If the dispute has not been resolved by non-binding means as provided herein, these terms and conditions do not preclude either party from initiating litigation upon written notice to the other party.
20. **MISCELLANEOUS:** This order and the contract formed upon its acceptance shall be governed by, and shall be interpreted and construed in accordance with the laws of the state of South Carolina, without regard to conflict of laws principles. The U.N. Convention of Contracts for the International sales of goods shall not apply to this order or the contract formed upon its acceptance. This order sets forth the entire agreement between the parties hereto with respect to the subject matter hereof and supersedes all prior and contemporaneous understandings, negotiations, and dealings between the parties hereto. If any provision of this order shall be held invalid or unenforceable, the remaining provisions shall not be affected thereby. This order or the contract formed upon its acceptance shall not give rise to an employment, partner, joint venture or agency relationship between Buyer and Seller. Seller shall be an independent contractor and, as such, shall be responsible for the supervision of its employees or subcontractors, the payment of their salaries, wages, and benefits, and the withholding and proper disposition of all payroll taxes relating thereto.
21. **CONFLICT OF INTEREST:** Company shall exercise reasonable care and diligence to prevent any actions or conditions that could result in a conflict with Atotech's interests. This obligation shall apply to Company's activities in its relations with Atotech's employees, representatives and their families, as well as Atotech's vendors, contractors, or consultants. Company's effort shall include, but not be limited to, establishing precautions to prevent its employees or agents from making, receiving, providing or offering substantial gifts, entertainment, payments, loans or other considerations for the purpose influencing individuals to act contrary to Atotech's best interest.

\*\*\* Last Date Reviewed 08/17/2009 Mark Steele / Eve POWARS-BAHR \*\*\*

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