

# General Terms and Conditions of Purchase of ANDRITZ Soutec AG May 2013

## 1. Scope

- 1.1 These terms and conditions shall apply to all contracts that ANDRITZ Soutec AG concludes as a purchaser or ordering party unless otherwise expressly agreed in writing.
- 1.2 The supplier's terms and conditions of delivery shall only be binding on ANDRITZ Soutec AG if they have been expressly accepted by ANDRITZ Soutec AG in writing.
- 1.3 The supplier's quotations and advice shall be non-binding and free of charge for ANDRITZ Soutec AG but shall be binding on the supplier. The supplier shall be obliged to obtain sufficient information on any details that will influence the performance of the work that is the subject of the inquiry or purchase order.

## 2. Issuing an order

- 2.1 A contract shall be deemed to have been concluded when ANDRITZ Soutec AG issues a purchase order or schedules a delivery unless the supplier raises a written objection or submits a counter-offer within one week of receipt of the purchase order/delivery schedule. The time at which the objection/counter-offer is received by ANDRITZ Soutec AG shall determine whether or not it was made in time.
- 2.2 Orders must be issued in writing to be valid. Verbal orders, agreements, or modifications must be confirmed by ANDRITZ Soutec AG in writing.
- 2.3 In accepting a purchase order from ANDRITZ Soutec AG, the supplier also accepts the General Terms and Conditions of Purchase of ANDRITZ Soutec AG. Third-party general terms and conditions shall not be observed even if they are not specifically rejected.
- 2.4 All written correspondence must be in German or English. Shipping documents, delivery notes, invoices, and all related documents must also be written in German or English.

## 3. Prices

- 3.1 The price stated on the purchase order shall be binding. Value-added tax at the statutory rate is not included in the price.
- 3.2 Unless otherwise agreed on the purchase order, the prices set shall be understood as fixed prices DAP including packaging and preservation in accordance with the currently applicable version of Incoterms.
- 3.3 Cost increases or reductions due to modifications must be agreed in writing prior to delivery.

## 4. Delivery times

- 4.1 Agreed deadlines and time periods shall be binding. Whether a delivery deadline or delivery period is complied with shall be determined based on the time the goods are received at the premises of ANDRITZ Soutec AG or of the recipient designated by ANDRITZ Soutec AG.
- 4.2 Part-deliveries shall only be permitted by prior agreement. Partial shipments must be designated as such on the shipping documents.
- 4.3 If a delivery is made before the set delivery deadline, which requires the consent of ANDRITZ Soutec AG, the time periods associated with the delivery shall not begin until the deadline originally agreed.
- 4.4 If the supplier foresees problems that may prevent timely delivery or delivery at the agreed quality standard, the supplier must inform ANDRITZ Soutec AG immediately, stating the reasons and expected duration of the delay. ANDRITZ Soutec AG shall be entitled to check on the progress of work at the manufacturer's or supplier's premises.

- 4.5 In the event of a delayed delivery, ANDRITZ Soutec AG shall be entitled to the statutory claims. ANDRITZ Soutec AG shall be entitled to request a contractual penalty of 1% (0.5% for documentation) of the total value of the order for each week that has commenced since the point in time the delivery was delayed, up to a maximum of 5%. The supplier shall waive the entitlement to have the contractual penalty reduced by a court. The right to claim for other damage or loss shall remain expressly reserved. ANDRITZ Soutec AG shall not be obliged to notify the supplier of any delays. The contractual penalty shall not be deemed to have been imposed if the delivery was accepted and/or paid for, in whole or in part, without any reservations.

- 4.6 ANDRITZ Soutec AG shall reserve the right to refuse to accept overdeliveries and to request in the case of underdeliveries that the missing quantity be supplied under the same conditions.

- 4.7 If force majeure should prevent a delivery deadline being met, the supplier must notify ANDRITZ Soutec AG of this in writing immediately. Failure to do so will forfeit the supplier's entitlement to a deadline extension. In this case, ANDRITZ Soutec AG shall use its reasonable discretion to determine whether the delivery deadline is to be extended and, if so, by what period of time. Only unavoidable events of the kind that could not have been foreseen when the contract was concluded, such as acts of war and natural disasters, shall be regarded as force majeure events. Force majeure events shall not include for example strikes, manufacturing faults, supply bottlenecks, or delays affecting sub-suppliers.

## 5. Transport / Transfer of risk / Documentation / Packaging

- 5.1 Unless agreed otherwise, goods shall be transported to their destination for the account and at the risk of the supplier. ANDRITZ Soutec AG shall assume the benefits and risks following the acceptance of the goods at the specified receiving center.
- 5.2 A delivery note stating the purchase order number must be enclosed with each delivery. Invoices are to be sent to ANDRITZ Soutec AG stating the purchase order number. Unless otherwise agreed, the supplier shall arrange for shipment. The cost of any transport insurance policy shall be paid by the supplier.
- 5.3 The supplier is responsible for packaging goods in a professional manner. Although specific instructions from ANDRITZ Soutec AG must also be observed, they do not release the supplier from their obligation to package goods in a professional manner. We shall be entitled to return packaging material in return for reimbursement of the amount invoiced for it.

## 6. Quality / Acceptance

- 6.1 The supplier shall itself be obliged to verify the quality of the items to be supplied.
- 6.2 The supplier acknowledges that ANDRITZ Soutec AG is unable to inspect supplied items in terms of defects, type, and quantity as soon as they are handed over or accepted. For this reason, the supplier shall waive the requirement for ANDRITZ Soutec AG to comply with the obligation to inspect deliveries and report defects immediately and shall hereby grant a grace period of up to four weeks of defects of this kind being discovered within the guarantee period.
- 6.3 The supplier shall permit ANDRITZ Soutec AG to perform a preliminary check of the item to be supplied in the supplier's factory. ANDRITZ Soutec AG and/or the customers and/or third parties commissioned by ANDRITZ Soutec AG shall be entitled at any time to check the handling and/or the state of completion of the order during normal business hours. Performing checks of this kind does not imply acceptance. Any costs incurred by these checks shall be borne by the supplier with the exception of the personal costs of ANDRITZ Soutec AG and/or the personal costs of third parties. All costs resulting from repeat checks that are the supplier's responsibility shall be borne by the supplier.

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6.4 If the item to be supplied is to be installed in a system to be supplied by ANDRITZ Soutec AG to third parties, then the period of liability for material defects and the guarantee period (in accordance with section 7) shall commence once the complete system has been accepted in the third party's factory.

## 7. Guarantee / Reporting defects

7.1 The supplier shall guarantee that the item to be supplied is in line with the promised or specified services and specifications.

7.2 The item to be supplied must comply with the regulations under public law (e.g. Electrosuisse, SVTI/ASIT, Suva, etc.) that apply at its destination as well as the currently applicable EU standards (CE).

7.3 The supplier acknowledges that incoming goods are only subject to a visual check (identification of parts, quantity, damage in transit).

7.4 The guarantee period shall start when the supplied item/complete system is accepted at the premises of the customer of ANDRITZ Soutec AG and shall last for 24 months or, as the case may be, a maximum of 36 months after delivery to ANDRITZ Soutec AG. ANDRITZ Soutec AG shall have the option of demanding a reduction or repairs; the right to rescind the contract shall remain reserved in the event of serious defects. Once repairs have been carried out, this option shall be restored; the abovementioned guarantee period shall restart anew. Spare parts shall be governed by the above guarantee provisions.

7.5 While the goods are at the supplier's or their agents' premises being inspected for defects or repaired, the limitation period for claims shall be suspended.

7.6 After consultation with the supplier, defects can in urgent cases be rectified by third parties at the supplier's cost; the supplier shall not refuse their consent to this without good reason. A substitute performance of this kind shall not affect the supplier's guarantee obligations. The right to assert other statutory claims shall remain reserved.

7.7 The supplier acknowledges that the goods supplied are used across the world in the products manufactured by ANDRITZ Soutec AG. The supplier undertakes to supply spare and wear parts for the item supplied for up to ten years after delivery at prices and within delivery periods that are standard on the market.

7.8 The factory acceptance test serves to check for obvious defects. The right to assert claims due to other defects that may emerge, particularly after lengthy operation, shall remain reserved. If any payments are made, this shall not be regarded as a waiver of the right to report defects.

7.9 The supplier shall be responsible for ensuring that their delivery does not infringe any third-party copyrights, patents, trademarks, utility models, or any other legal claims of third parties. The supplier shall release ANDRITZ Soutec AG from all claims brought by third parties and shall be liable for any consequences of breaches of this kind.

7.10 If use of the supplied item leads to an infringement of industrial property rights or copyrights, the supplier shall arrange, at their cost, for ANDRITZ Soutec AG to be entitled to continue to use the item or shall modify the supplied item in a manner acceptable to ANDRITZ Soutec AG so that the rights in question are no longer infringed.

7.11 In all other respects, the supplier shall be liable without restrictions for all damage or loss for which it is responsible.

## 8. Accounting / Payment

8.1 Invoice amounts that do not precisely state ANDRITZ Soutec AG's purchase order number, the order item number, quantities, or product numbers to designate the goods, or that fail to state the

origin criteria, shall not fall due for payment until the missing information has been formally provided or confirmed.

8.2 Unless otherwise agreed, invoices shall be settled with a 3% discount within 10 days, with a 2% discount within 30 days, or net within 60 days of receipt of the invoice and the provision of the associated service.

8.3 The right to offset invoice amounts with counter-claims shall remain reserved.

8.4 If ANDRITZ Soutec AG makes a part-payment, the supplier shall undertake to use this to pay for the third-party materials required to manufacture the ordered item. These shall be considered *mutatis mutandis* as materials provided by ANDRITZ Soutec AG.

8.5 The supplier's right to assign or offset claims shall be expressly excluded. This does not apply to assignments or offsetting that have the written consent of ANDRITZ Soutec AG.

## 9. Confidentiality / Advertising / Property rights / Product liability

9.1 The information contained in ANDRITZ Soutec AG's inquiries or purchase orders, the enclosed drawings and designs, and models and other makeshifts provided by ANDRITZ Soutec AG shall remain the property of ANDRITZ Soutec AG and may not be used in any other way without the written consent of ANDRITZ Soutec AG; they must be returned together with the quotations or once the purchase order has been executed, without a specific request for their return having been made.

9.2 All drawings, calculations, and other, especially technical, documentation developed or newly created by the supplier to complete the ordered item shall become the property of ANDRITZ Soutec AG and may only be used by the supplier for the purposes of supplying the ordered item.

9.3 Use of the purchase order for advertising purposes, including specialist publications, requires the written consent of ANDRITZ Soutec AG. The supplier shall not be entitled to name as references complete systems for which it supplies major parts itself.

9.4 We refer to the statutory provisions on property rights. The supplier shall treat the purchase order and the information gleaned from it as strictly confidential irrespective of whether information of this kind is or could be known to third parties.

9.5 Supplementary sheets with technical or commercial content that may be enclosed with the purchase order shall form an integral part of the purchase order.

9.6 If the purchase order documentation contains contradictory regulations, the following order of priority shall apply:

1. Wording of the purchase order
2. Specific technical and/or commercial terms and conditions and their enclosures
3. General Terms and Conditions of Purchase of ANDRITZ Soutec AG.

9.7 If a product liability claim is asserted against ANDRITZ Soutec AG, the supplier shall be obliged to release ANDRITZ Soutec AG from claims of this kind if and insofar as the damage or loss was caused by a fault in the item delivered by the supplier and forming the subject of the contract. In these cases, the supplier shall exempt ANDRITZ Soutec AG from all costs including expenses for any product recalls that may be required and the costs of legal action. In all other respects, the statutory provisions shall apply.

## 10. Cancellation / Suspension

10.1 ANDRITZ Soutec AG shall be entitled partially or in full to withdraw from an order regardless of any fault on the part of the supplier. In such a case, ANDRITZ Soutec AG shall be obliged to pay the supplier a proportion of the contract price that corresponds to the services and deliveries already effected and also to reimburse the proven direct costs for services and deliveries in progress and/or for the cancellation of sub-orders. Once this withdrawal has been announced, the supplier shall be obliged to do all it can to keep the costs to be reimbursed by ANDRITZ Soutec AG as low

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as possible. The right to assert any other claims, irrespective of their reason in law, shall be excluded.

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10.2 Insofar as is permitted by law, ANDRITZ Soutec AG shall be entitled to cancel an order with immediate effect if an application to commence insolvency proceedings for the supplier's assets is made.

ANDRITZ Soutec AG shall be entitled at any time to request that the supplier suspend the execution of an order. In such a case, the supplier must point out the consequences that will arise and propose an amendment to the schedule that represents the best possible solution in economic terms in the context of the project. The supplier shall be obliged to store ordered goods free of charge for up to six months.

### **11. Place of performance / Place of jurisdiction / Applicable law**

11.1 The place of performance shall be the destination specified by ANDRITZ Soutec AG. The place of jurisdiction shall be the domicile of ANDRITZ Soutec AG, although ANDRITZ Soutec AG reserves the right to take action at the competent court at the supplier's registered office.

The Swiss Code of Obligations shall apply. The United Nations Convention on Contracts for the International Sale of Goods (CISG) and the international conventions on conflict of laws shall not apply.

### **12. Concluding provisions**

12.1 The supplier may not assign the order or significant parts thereof to third parties without the prior written consent of ANDRITZ Soutec AG.

12.2 The supplier shall be liable without restrictions for the parts and/or services provided by their sub-suppliers.

12.3 Any resources (materials, tools, devices, etc.) provided by ANDRITZ Soutec AG shall be stored free of charge by the supplier at their cost and risk until they are used; they shall remain the property of ANDRITZ Soutec AG and may not be used in any other way.

This reservation of title shall also apply if the resources are processed or machined.

The resources handed over must be stored and maintained in an appropriate manner, insured by the supplier against potential damage at their own cost, and returned in faultless condition once the order has been completed unless otherwise agreed.

12.4 The supplier hereby confirms that it has acknowledged the Code of >Business Conduct and Ethics (the "Code") published on the ANDRITZ website [www.andritz.com](http://www.andritz.com)

(<http://www.andritz.com/group/gr-about-us/gr-sustainability.htm>).

The supplier agrees that the principles stated therein form the basis of their business relationships with the companies of the ANDRITZ Group and that they will observe and comply with these principles in their own conduct. ANDRITZ shall reserve the right to terminate the business relationships or the contract in the event of a significant infringement of the Code's provisions by the supplier. If the supplier infringes the Code, they shall indemnify and hold harmless the companies of the ANDRITZ Group.