

Conditions of purchase of ANDRITZ HYDRO GmbH

OCTOBER 2012
(GCC 10/12)

Date of Issue	Revision	Revised chapters	Type of Revision
01.10.2012	01	-	-
10.07.2015	02	2	Increase of the penalties
		14	Addition of the Code of business conduct and ethics
17.09.2015	03	14	Change to ANDRITZ Supplier Code of Conduct and Ethics
28.07.2017	04	15	Requirements of labour- and social security laws, law of engagement of foreigners
09.10.2017	05	15	Additional requirements of labour- and social law / Employment of foreigners
12.09.2018	06	11	Change payment terms to 60 days
		16	Addition Export Control

1 Orders and Order Confirmation

Orders with all supplements and changes and all agreements which are made verbally or by telephone are only valid when submitted to the contractor by the authorized purchasing department of the customer in writing or via fax, whereby the written or faxed order shall be decisive. Each order shall be confirmed within 10 business days with the included order confirmation; in case the order confirmation is not submitted in time the contractor has not accepted the order. Any terms contained in the offer or order confirmation which deviate from these Conditions of Purchase, in particular the General Terms and Conditions of Delivery of the contractor, are invalid unless recognized by the customer in writing.

The contractor shall obtain written authorization from the customer for all subcontractors used. The contractor shall supply the customer a copy of the order upon request.

In the event that the delivery includes planning, drafts or creative services, the customer shall be awarded factory usage rights, including the right to modify or copy, at no extra charge, and shall be entitled to transfer all documentation received from the contractor or his subcontractors to his partners and final customer's.

2 Schedules

All schedules and deadlines shall be met exactly.

Orders before the agreed delivery data require written authorization and do not entitle the contractor to advance payment. The contractor shall inform the customer of the reason and expected duration of the delay in writing immediately in the event that it becomes apparent that it will not be possible to meet the agreed delivery date(s).

In the event that the delivery dates should change for reasons not attributable to the contractor, the contractor shall properly store the goods ordered for a period of up to three months at his own risk and expense.

In the event that the contractor fails to meet the schedules and delivery dates indicated in the order, the following contractual penalties shall be paid until the actual delivery date on the basis of the total order value regardless of fault:

Delivery and service: 2 % per week of delay begun, up to a maximum of 10% of the total order volume;

Documentation: 1 % per week of delay begun, up to a maximum of 5% of the total order volume.

These contractual penalties shall also apply to new schedules in the event that the customer and contractor agree to changes in the delivery date(s). This shall have no effect on any contractual penalties already incurred. Notwithstanding entitlement to contractual penalties, the customer shall also be entitled to withdraw from the entire order or the remaining part of the order which has not been fulfilled with a period of notice of 14 days or to demand fulfillment of the order in the event of delayed delivery, including for delays for part of the order.

3 Packaging and Shipping

The terms of shipping and packaging guidelines of the customer shall apply. The contractor shall request these from the customer if they are not known.

The contractor shall expressly inform the customer in good time in the event that the object of the order requires special shipping and packaging measures.

A complete declaration of readiness to deliver shall be submitted to the customer immediately in two copies for each delivery from an order, followed by a delivery announcement with the order number. Each unit or package shall also include a packaging slip or delivery bill with exact information on the contents and packaging data. All deliveries which are not sent directly to the customer, but to a third party, shall be sent in neutral packaging with a neutral packaging slip or delivery bill in the name of the customer.

The contractor shall submit a valid preferential certificate (such as a movement certificate, certificate of origin, etc.). Special instructions from the customer shall be complied with. No indication of value may be included in the shipping documents unless indicated otherwise in the customer's terms of shipping. The complete shipping address shall be included on all shipping documents.

Special product regulations shall apply. All products subject to hazardous goods regulations shall be rated, packaged and labeled properly in accordance with the respective form of shipping; the legally required safety data sheets shall be included with the order confirmation.

The customer will accept no orders sent c.o.d. All damages and expenses arising from failure to comply with the shipping regulations shall be borne by the contractor.

4 Acceptance and Guarantee

Confirmation of acceptance or receipt on the return shipping bill and payment are no indication of receipt of a proper shipment. The customer is not obligated to check or inspect the goods and services received from the contractor before startup or use. Complaints for any faults may be lodged within 90 days after acceptance. The order shall be considered fulfilled when all contractor obligations including all ancillary obligations such as the supply of complete and proper documentation have been fulfilled. The actual delivery date shall be considered to be the date on which the order itself all such obligations have been fulfilled.

In addition to the generally required and expressly promised characteristics, the contractor shall also guarantee the completeness and suitability of all deliveries and services for the concrete intended use and the fact that all deliveries and services are completely free of fault for the entire guarantee period. The guarantee period ends 24 months after the date of Acceptance of the whole Plant, however, latest 48 months from complete fulfillment according to the Contract. For steel structures and corrosion protection the guarantee period ends 36 months from Acceptance of the whole Plant, however, latest 60 months from Completion of Erection. The guarantee period for the entire object of delivery shall begin anew when replacement parts are installed and/or repairs made. The guarantee period for replacement parts supplied with the order shall be 12 months after the installation and startup of these parts. The customer shall be entitled to demand replacement parts free of charge at the location of use (even if the fault can be corrected), repair free of charge or a reasonable price reduction in the event that faults arise during the guarantee period, or to withdraw from the contract in the event of serious faults during this period.

The customer shall also be entitled to correct the faults himself or to have the faults corrected by third parties at the risk and expense of the contractor in urgent cases or in cases where the contractor fails to correct the faults within 7 days after being informed of the fault.

The contractor shall also bear all costs for testing measures, expert fees and all processing fees resulting from the fault.

Claims for compensation for faults may be asserted by the customer in a court of law for a period of 12 months after the lapse of the guarantee period.

The contractor shall guarantee the availability of replacement and wearing parts for the object of the contract for a period of 10 years after the end of the guarantee period.

5 Withdrawal

The customer shall be entitled to withdraw from the contract after a reasonable period of notice (normally 14 days) in the event of violation of the contract. A separate period of notice shall not be required when the contractor has already had an effective period of notice.

The customer shall be entitled to withdraw from the contract in part or in whole at any time without justification. In this event, the customer shall be obligated to pay the portion of the contract which has already been fulfilled and to compensate the contractor for any direct costs which can be proven to be associated with deliveries which are being processed and for unavoidable cancellation fees from subcontractors. The contractor shall be obligated to do everything in his power to keep the costs incurred by the customer as low as possible. In the event of withdrawal from the contract, the customer shall be entitled to use the object of the order free of charge until the acceptance of a substitute solution.

6 Compensation for Damages and Product Liability

The liability of the contractor is subject to the applicable legal regulations, the customer accepts no liability whatsoever for loss of profits or production interruptions. Liability limitations of the contractor shall not apply.

The contractor shall be liable for his subcontractors and suppliers as he is for his own products and services.

The contractor shall be obligated to indemnify the customer from product liability claims from third parties and to provide all information and documents on the respective manufacturer or importer necessary to defend against product liability claims of third parties in good time for a period of 12 years after delivery.

The contractor shall be obligated to supply complete and easily understandable operating instructions in the agreed language, to archive all required documents and to carefully monitor all products.

The payment of contractual penalties for delays or incomplete deliveries and services does not relieve the contractor of his obligation to fulfill the contract or the associated liabilities. The customer reserves the right to demand compensation for damages in addition to the contractual penalties, whereby any contractual penalties paid will be deducted from these damages.

7 Quality Assurance

The contractor and his subcontractors shall be obligated to apply quality assurance measures in accordance with the pertinent standards, such as ISO 9000 to ISO 9004, to all products and services provided.

The customer reserves the right for himself or for the end customer and/or his testing organizations or bodies to inspect the production and storage facilities of the customer and his subcontractors at any time during the drafting, planning and manufacture of the object of the order and during preparations for delivery in order to complete schedule checks and intermediate and final technical inspections (including for packaging) and to audit the quality

control system of the contractor and his subcontractors. The completion of or waiver of tests and inspections does not limit the obligations of the contractor or relieve the contractor of his obligations to the customer.

The contractor shall be obligated to prepare and supply all deliveries and services in accordance with the applicable national and international standards and the latest technological standards.

8 Safety Regulations

For Supplies and Services required to be marked with the CE-sign and for which a EC declaration of conformity for the machinery, Pressure Equipment, electrical equipment, ROHS, or a EC declaration of incorporation for partly completed machinery is required or permitted the Contractor is obliged to conform to all of the legal terms concerning this matter and shall affix the CE-sign to a ready-to-use machinery/equipment and submit to the Customer all necessary EC declaration of conformity for the machinery or a EC declaration of incorporation for partly completed machinery including the required risk assessments and Operation and Maintenance Manuals in the language prescribed for the Documentation.

If there is to apply the EG-VO 1907/2006 REACH for supplies, there have to be provided a safety data sheet (articl. 31) or rather an information for products (articl. 33) in English and German for free.

9 Retention of Ownership and Assignment

All deliveries to the customer shall be free of rights of retention. All such rights are invalid, even if not expressly contradicted by us. Claims from deliveries to us may only be transferred with our express prior written authorization. Such transfer is only permissible if assignment is not possible as a result of these claims.

The contractor hereby expresses his consent to the assignment of his contractual obligations, in particular his guarantee obligations, to the end customer.

10 Customer Provisions

All materials provided by the customer remain the property of the customer, shall be permanently labeled as such and shall be stored separately. All new, modified or connected goods including semi-finished goods which result from the processing and use of these materials shall pass into the ownership of the customer immediately.

Drawings, sketches, samples, models, aids and other documentation provided for the completion of the order remain the property of the customer at all times, shall be handled as business secrets and shall be protected against unauthorized access. The indicated documentation shall be labeled as the property of the customer and shall be returned immediately upon demand.

11 Prices and Terms of Payment

All prices are fixed prices less VAT and shall include all taxes, duties, fees, etc. and all costs for documentation, technical inspection and testing, paint, corrosion protection, labeling, signs, etc.

Unless agreed otherwise, the customer will make all payments within 60 days after the agreed due date and receipt of the invoice and after fulfillment of all requisite obligations

named in the order, in particular after submission of complete and proper documentation, by means of transfer. Payment can be withheld until the processing of all complaints.

12 Invoicing

All invoices shall include the order number, item number, etc. and shall be submitted to the customer with all documents required to identify the invoice (see order for company name and address).

Contractors from EU member states shall also include all goods movement certification in addition to the legally required information for tax exemption with all invoices. The final payment will only be authorized after submission of the final invoice containing all deliveries and services for the respective order and all associated payments.

The final invoice shall contain all claims from the respective order. The contractor expressly declares that no further claims will be asserted in relation to the order upon submission of the final invoice.

13 Place of Jurisdiction, Applicable Law

13.1 Subject to Article 13.2 hereof, all disputes arising in connection with the present Contract or related to its violation, termination or nullity which cannot be settled by mutual agreement, shall be finally settled under the Rules of Arbitration and Conciliation of the International Arbitral Center of the Austrian Federal Economic Chamber in Vienna (Vienna Rules) by one or more arbitrators appointed in accordance with these Rules. Arbitration proceedings shall be held in English language. Austrian substantive law under exclusion of the UN-Convention on Contracts for the International Sale of Goods 1980 and its rules about the conflict of Rules shall apply. The place of arbitration shall be Vienna.

13.2 The Customer reserves the right of recourse to the civil court competent according to the applicable law of civil procedure. In this case Austrian law shall apply.

13.3 Unless stipulated otherwise in the Order, the prices shall be quoted Free Carrier (FCA) delivery address of the contractor according to INCOTERMS 2010. The contractor is responsible for the correct securing of the delivered goods on the transport vehicle.

14 ANDRITZ Supplier Code of Conduct and Ethics (“Supplier Code”)

“The supplier herewith confirms that:

- he has received and read a copy of the ANDRITZ Supplier Code of Conduct and Ethics (“Supplier Code”), which is published on the ANDRITZ web site at www.andritz.com²;
- he undertakes to comply with the Supplier Code and agrees that it shall form the basis of present and future business with ANDRITZ (ANDRITZ AG and its affiliates);
- this Supplier Code shall form part of any agreement entered into between the supplier and any ANDRITZ company, regardless of whether it is expressly incorporated into the contract by reference or not;
- he shall be held responsible for ensuring compliance with the Supplier Code by his employees, company representatives, as well as subcontractors and any business

partners that the supplier is using to supply products and/or services when doing business with ANDRITZ.

ANDRITZ reserves the right to terminate the business relationship or contract in the event of major breach of the rules laid down in the Supplier Code. The supplier will hold harmless and indemnify ANDRITZ from and against damages arising out of a breach of the Supplier Code.”

(²<http://www.andritz.com/index/gr-procurement.htm>)

15 Regulations concerning labour- and social law / Employment of foreigners

When carrying out DELIVERIES/SERVICES, the contractor is obligated to comply with the regulations concerning labour and social law applicable in the respective country of assignment as well as with the regulations concerning the employment of foreigners and with laws designed to combat social dumping, whereby upon failure to do so, the contractor shall incur the liability for any disadvantageous consequences. The liability for disadvantageous consequences shall also include the obligation on the part of the contractor to hold harmless to the fullest extent possible all persons, such as responsible agents and board members or managing directors of the Client who are subjected to penalties by public authorities, even if these persons have no contractual relationship with the contractor.

Moreover, the contractor declares that he shall only assign employees to work at ANDRITZ HYDRO GmbH who have an employment contract with an Austrian employer which includes full insurance coverage and who are registered with an Austrian regional health insurance fund and for whom the associated contributions are paid.

All documents required to comply with these laws and regulations (in particular the confirmation of registration with the social insurance fund) are to be turned over to the Client by the contractor in documentable form at the latest by 4 weeks before the assignment of the personnel to the construction site. This also applies for assignments of a shorter duration, such as for final inspection after assembly, commissioning monitoring, etc. The contractor shall also see to it that these required documents are up to date and thus fulfil the corresponding legal requirements throughout the duration of the execution of the order. Please take note that if the requirement to turn over the documents is disregarded, access to the company premises or the respective construction site will be denied.

Subcontractors

In the event that the contractor engages further companies for the purpose of fulfilling his contractual obligations, he shall be liable to the ANDRITZ HYDRO GmbH, their authorised representatives as well as responsible persons for noncompliance with legal regulations, especially with respect to regulations concerning laws designed to combat wage and social dumping, regardless of his own ability or the possibility for monitoring this. The contractor shall ensure that subcontractors as well only assign such personnel as complies with the aforementioned requirements.

16 Export Control

The contractor shall be obligated to obtain all required export licenses, in particular for the export of the object of the contract to the country of the end customer, associated with the contract at his own expense. The contractor shall guarantee the complete delivery of the object of the contract at the point in time at which the order is placed and shall guarantee that there are no legal or other barriers to the fulfillment of the contract. The contractor shall inform

the customer of any new export bans or limitations in good time after the conclusion of the contract and shall present alternative variants free of charge as early as possible.

The contractor undertakes to notify the customer when the order is awarded of any goods in his scope of supply and of their dual-use codes if these goods are subject to Council Regulation (EC) 428/2009, as amended, (the so-called "Dual Use List") or to any other licensing requirements under EU export controls legislation (e.g. the Common Lists of Military Goods, Annex II of the Russia embargo, etc.) or to the US (Re-)export legislation. If the goods originate from the US, the contractor must provide the customer with an ECCN (Export Classification Control Number) or inform the customer that the goods are exempted (referred to as EAR99 coding) from licensing requirements in general. The contractor must notify the customer immediately if goods that were not subject to export licensing (e.g. on such lists as the Dual Use list) when the order was awarded become subject to export licensing in the meantime (e.g. have been included in a list of goods such as the Dual Use list) or if the contractor becomes aware of any other export barriers or impediments.

17 Other

The contractor shall guarantee that the use of the deliveries and services provided by him does not infringe upon the rights of third parties (trademarks, samples, patents, regional limitations, etc.) and that their use is not in violation of existing boycott measures, blacklists, etc.

No compensation will be provided for the preparation of offers. The bidder declares his express consent to the provision of technical offer documentation to third parties (engineering partners, customer's, etc.) as required, whereby the bidder shall not be entitled to any compensation for this whatsoever.

The contractor shall give timely information to the customer of any planned subcontracting and seek its prior written approval thereto.

The contractor shall hold the contents of the order and the business relationship and all information obtained directly or indirectly from the customer or the end customer and all information supplied by the customer for the fulfillment of the order in the strictest of confidence and shall use this information solely for the fulfillment of the respective order.