6.1 The Seller knows that we cannot inspect the delivered goods for deficiencies, type and extent of the adaptation will be determined by us as appears fair (Section 315 – German Civil Code).

4. Delivery date
4.1 If the Seller realizes that the dates agreed upon cannot be maintained he shall immediately inform us accordingly. His commitment to maintain the dates agreed upon shall remain unaffected.
4.2 In case of delay on the part of the Seller we shall be entitled to deduct a penalty in the amount of 0.2% up to 5% at a maximum of the total order value for each calendar day of delayed delivery or to claim compensation for the damage caused by the delay; §341 point 1 BGB is excluded. In the event that we first assert the above lump-sum penalty, it shall not prevent, from claiming compensation of the special damage caused by the delay against which the penalty shall be set off. The penalty shall not be considered waived in case the supply has been accepted and/or paid for without reservation either completely or in part.
4.3 If the goods are defective delivery shall be delayed and the penalty shall be paid in accordance with our consent – the specified periods related to delivery shall not begin before the delivery date originally agreed upon.
4.4 Should maintaining the delivery date become impossible due to force majeure or subsequent instructions given by us, the Seller shall advise us in writing without delay. We will then decide as appears fair (Section 315 – German Civil Code) whether and by what period the delivery period will be extended.
4.5 Force majeure shall only be such inevitable circumstances that could not be foreseen upon signing the contract, such as armed conflicts and natural disasters. Strikes, production faults, scrap castings, supply bottlenecks or delayed delivery by the Seller's suppliers are among the circumstances that are not considered force majeure.

5. Shipping Instructions
The delivery and shipping instructions as well as the specifications for packing materials issued by us shall be duly observed. Packing shall be to the extent required for protection of the goods. It shall exclusively consist of environmentally safe and recyclable materials. Unless otherwise agreed, packing shall be at our cost-free. All cost incurred by us due to non-observance of the delivery, shipping and packing instructions shall be to the Seller's account.

6. Handling over / Acceptance
6.1 The Seller knows that we cannot inspect the delivered goods for defects, type and extent of these immediately after handing over or acceptance. Therefore, the Seller renounces the right to insist on our duty to examine and make a complaint in respect of a defect immediately on receipt of the goods in the sense of Sections 377, 378 of the German Commercial Code. Time limit for the complaint is within 4 weeks after detection of the defect while assembly of the delivery item.
6.2 The Seller grants us the opportunity of a preliminary inspection of the goods at his factory. Carrying out such inspection is not combined with acceptance. In the event that these inspections cause any cost, they shall be to the Seller's account except our personal expenses and/or personal expenses of third parties. Provided these inspections have to be repeated due to the Seller's fault, all resulting cost shall be to his account.
6.3 In case the delivery item will be installed in a plant to be supplied by us to third parties, the liability for material defects and the warranty (pursuant to the provisions of clause 7. below) shall commence after acceptance of the total plant at the works of the third party.
6.4 Any shipment shall be accompanied by a delivery note giving our purchase order number, item number and, if required, part number.

7. Liability for Material Defects and Warranty
7.1 If the purchased goods or the work performed are defective, the Seller shall primarily be liable in accordance with the provisions, agreed upon, to be provided to us. The Seller is bound to draw our attention to the consequences and to offer an economically best possible modification of the time schedule for the project concerned. The Seller shall not assert any claims for an interruption of contract performance up to 6 months at a maximum.

8.1 Cancellation
We shall be entitled to withdraw either completely or in part from the order even without the Seller being at fault. If so, we will be obliged to pay the Seller the contract price proportionate to the supplies and services rendered. In addition, we will be obliged to reimburse direct costs of supplies and services that are being rendered and for which proof has been furnished as well as cost of cancellation or orders placed with the Seller in substitution. Upon receiving notification of our cancellation, the Seller shall make all effort to minimize the cost to be refunded by us. All and any additional claims arising out of or in connection with a cancellation – no matter for what legal ground – shall be excluded.
8.2 We shall be entitled immediately to cancel an order in case insolvency proceedings are instituted for the property of the Seller.
8.3 Interruption of contract performance
We are entitled any time to request the Seller to interrupt contract performance. If so, the Seller is bound to draw our attention to the consequences and to offer an economically best possible modification of the time schedule for the project concerned. The Seller shall not assert any claims for an interruption of contract performance up to 6 months at a maximum.

10. Order Documents
10.1 The information contained in our inquiries or orders, the enclosed drawings and drafts as well sample models, patterns, printing plates and other expedients remain our property and may not be used elsewhere without our written consent; they must be returned with the offers or after the order has been executed without any special demand having to be made by us.
10.2 All drawings, calculations and other, especially technical, documents remain our property and may without special permission also be used for stock breeding of spare parts, repairs and alterations of the supplied equipment.
10.3 Our order may only be used for advertising purposes, including specialized publications, provided we have approved of such use in writing. The Seller shall submit complete plants as his reference for which he provided a considerable portion of the equipment.
10.4 The order as well as all data, papers, etc. related to it must be treated as our trade secret.
10.5 The place of jurisdiction shall be Cologne. However, we can bring an action against the Seller at his place of jurisdiction.
10.6 The applicable law is German material law. The contract relations shall be governed pursuant to the provisions of the Civil Code (BGB) and the Commercial Code (HGB) valid in the Federal Republic of Germany. The application of the UN Convention of the International Sale of Goods shall be excluded.
10.7 Any annex to the order of technical or commercial nature shall be an integral part of the order.
10.8 In the following priorities shall apply in case of discrepancies in the order documents and our General Purchasing Terms:
1. Wording of the purchase order and its annexes
2. Our "General Purchasing Terms".

11. Place of Performance / Partial Invalidity / Jurisdiction/Applicable Law
11.1 The place of performance for supplies and services shall be the place of destination; for payments the headquarters of ANDRITZ SEPARATION GmbH, Cologne.
11.2 In case one or several provisions of the contract have become or become invalid, the other provisions shall remain in force.
11.3 The place of jurisdiction shall be Cologne. However, we can bring an action against the Seller at his place of jurisdiction.
11.4 The applicable law is German material law. The contract relations shall be governed pursuant to the provisions of the Civil Code (BGB) and the Commercial Code (HGB) valid in the Federal Republic of Germany. The application of the UN Convention of the International Sale of Goods shall be excluded.

12. General
12.1 Materials we made available shall be kept in safe custody by the Seller cost-free until they are used. They remain our property and must not be used elsewhere. They shall be unambiguously identified as "property of Andritz Separation GmbH" and be stored separately. This reservation of title shall also apply in case the materials are processed. The Seller’s guarantee obligation for his scope of supplies as well as complete design and operability will not be affected by materials we made available.
12.2 The Seller shall advise us in advance if substantial components of the purchase or of the works being supplied by sub-contractors and obtain our approval to use them.
12.3 Any our and/or our customers’ liability and claims related to the scope of supplies shall be terminated by us at any time during normal business hours to inspect the processing and/or the manufacturing process of the order.
12.4 Our “General Purchasing Terms” shall be applicable to purchase orders, contracts for work and services as well as all other supply agreements. The term “Seller” used above shall also concern the sub-contractor or other suppliers modified such free receiving place.
12.5 The Purchaser reserves the right to store ordered goods cost-free at the Seller up to a period of 6 months at a maximum.

General Purchasing Terms of Andritz Separation GmbH

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