

General Terms & Conditions of Sale

ANDRITZ Separation



1. TERMS APPLICABLE

These General Terms and Conditions of Sale apply to any legal transaction between Seller and Buyer ("Agreement") with respect to the sale of products, equipment and associated parts ("Products"), services rendered relating thereto ("Services") and/or any software, whether embedded in the Products or provided separately under the Agreement, in machine-readable, object code form and any modifications made by Seller thereto ("Software"). Seller concludes the Agreement exclusively on the basis of these General Terms and Conditions of Sale. Any general terms and conditions or contract forms of Buyer will not be acknowledged and shall not become part of the Agreement, no matter (i) whether or not they were known to Seller, (ii) whether and when they were submitted to Seller (e.g. automatically generated by any ERP System and attached to purchase orders or any other system generated document), (iii) whether or not Seller objected to them, and (iv) whether or not they are in conflict with these General Terms and Conditions of Sale. Any of Buyer's terms and conditions that are in addition to or different from those contained herein, which are not separately agreed to by Seller in writing, are hereby objected to and shall be of no effect.

2. DELIVERY AND PERFORMANCE OF OBLIGATIONS

- (1) Delivery of the Products shall be made in accordance with the agreed INCOTERM. Unless otherwise agreed, all deliveries are FCA (INCOTERMS 2020) Seller's workshop or other place indicated by Seller. In any event, the risk of loss and/or damage passes upon delivery.
- (2) Unless expressly stated otherwise in writing, all offered prices, delivery terms and/or performance dates are good faith estimates and indicative only. The final price and delivery terms are subject to availability of supplies and the prices agreed with sub-suppliers and subcontractors.
- (3) Buyer's failure to make advance or interim payments, to supply technical information, drawings or to grant approvals in accordance with the Agreement will result in a commensurate delay in delivery or performance of the project, which shall entitle Seller to an extension of time and reimbursement of additional costs and damages as further detailed in this clause 2 and clause 5. If Buyer fails to make any payment or provide any payment securities due according to the Agreement, Seller shall be entitled to a fine of 2%, plus interest on arrears of 1% per month and monetary correction by the IGPM index or, in case it ceases to exist, any other Brazilian index that replaces it, on the unpaid portions of amounts due. In case of payment delays not solely caused by Seller, whether before or during the execution of the Agreement, Seller shall be entitled to suspend its works, to claim an extension of time and full compensation of all costs arising from the suspension and later continuation of work, including but not limited to, storage costs, de- and re-mobilization costs and banking fees. The continuation of work is subject to the payment of these costs and an adequate extension of time having been granted to Seller. Seller and Buyer may establish the conditions for resuming the performance of the parties' obligations in a separate agreement. If the suspension lasts longer than 3 months, Seller shall have the right to terminate the Agreement for default as per clause 10 (1).

3. WARRANTY

PRODUCTS:

- (1) Seller warrants that the Products shall be free from defects in design, material and workmanship. The warranty period shall commence upon delivery of the Products and shall expire on the earlier to occur of 12 months from the initial operation of the Products or 18 months from the delivery of the first main equipment or Seller's notification of readiness to deliver the first main equipment, if the delivery cannot be effected due to reasons not attributable to Seller (the "Warranty Period for Products"). If during the Warranty Period Buyer discovers a defect in design, material or workmanship, which has not been apparent in an initial inspection of the Products, and promptly notifies Seller thereof in writing, Seller will, at its option, either (a) deliver to Buyer, on the same terms as the original delivery was made, a replacement part or (b) repair the defect. Any repair or replacement part furnished shall be free from defects in design, material and workmanship for 6 months from the completion of such repair or the delivery of the replacement part. However, all warranty obligations shall end 24 months upon the commencement of the original Warranty Period. Seller shall have no warranty obligations: (i) if the Products have not been operated and maintained in accordance with generally approved industry practice and Seller's specific written instructions; (ii) if the Products are used in connection with any mixture or substance or operating condition other than those for which they were designed; (iii) if Buyer fails to promptly notify Seller of a defect in writing; (iv) if the Products are repaired by someone other than Seller or have been intentionally or accidentally damaged; (v) for corrosion, erosion, ordinary wear and tear or in respect of any parts which by their nature are exposed to severe wear and tear or are considered expendable; or (vi) for expenses incurred for work in connection with the removal of the defective parts and reinstallation following repair or replacement.

SERVICES:

- (2) Seller warrants that the Services performed shall be free from defects in workmanship and will conform to any mutually agreed specifications. If any failure to meet this warranty appears within 6 months from the date of completion of the Services ("Warranty Period for Services"), on the condition that Seller be promptly notified thereof in writing, Seller as its sole obligation for breach of this warranty will correct the failure by re-performing any defective portion of the Services furnished. However, all warranty obligations shall end 9 months upon the commencement of the original Warranty Period for Services. Seller does not warrant the accuracy of, or performance results of, any conclusions or recommendations provided, nor that any desired objective will result from the Services provided.

SOFTWARE:

- (3) Seller warrants that on the date of delivery or download ("Delivery") of any proprietary Seller Software to Buyer: (i) the Software will function substantially in accordance with the related Seller operating documentation ("Quality Defect"), and (ii) the Software, when Delivered, will not infringe any copyright, trade secret, or an unchallenged patent issued by a competent patent office as of the date of Delivery of the Software in the country of the Buyer ("Legal Defect"). Software products from other manufacturers shall be subject only to the warranty conditions of the manufacturer according to the relevant end-user license agreement (EULA).
- (4) Buyer shall inspect the Software promptly after Delivery and promptly notify Seller in writing if a Quality Defect becomes apparent. If Buyer fails to so notify Seller of a Quality Defect in writing, then the Software is considered to have been accepted, unless the Quality Defect is one which was not apparent at the inspection. If within 6 months from the date of initial installation or 12 months from the date of Delivery of the Software ("Warranty Period for Software"), whichever occurs earlier, Buyer discovers a Quality Defect in the Software and promptly notifies Seller in writing thereof, Seller shall at its discretion either repair or replace the Software. Repaired or replaced Software will be warranted to the same limited extent as the original Software for the remainder of the original Warranty Period for Software or thirty (30) days from the date of receipt by Buyer, whichever is longer.
- (5) Buyer's sole and exclusive remedy for any Legal Defect is at Seller's sole option either (i) obtaining a license to use the Software; or (ii) making such replacements or modifications as are necessary to continue the use of the Software without infringement and in compliance with the specifications, if any, and documentation. If so requested by Seller, Buyer will permit Seller to control the defense and settlement of any claim brought against Buyer by any third party asserting that the contractually compliant use of the Software by Buyer infringes any copyright, trade secret or an unchallenged patent issued as of the Delivery. Buyer shall provide Seller with prompt written notice of the claim. Buyer shall have no authority to settle any claim on behalf of Seller.
- (6) Seller shall not have any warranty obligations if: (i) the Software is modified, changed, or altered by anyone other than Seller or its sub-suppliers, unless authorized by Seller in writing; (ii) the Software was not installed on Products or other goods authorized by Seller and there has been a change to the Products for which the Software is ordered



by anyone other than Seller; (iii) the Products or other goods approved by Seller are not in good operating condition and are not installed in a suitable operating environment; (iv) the defect is caused by Buyer or any of its agents, servants, employees, contractors, or any third party; (v) Buyer fails to promptly notify Seller of a defect in writing; and (vi) the fee(s) for the Software due to Seller, if any, have not been fully paid.

(7) The Seller's control system is configured and hardened according to the Cyber Security Standard IEC-62443-3-3. Documented settings and the IEC-62443 compliance test report will be provided to Buyer as part of the cyber security documentation. After Delivery Buyer shall be solely responsible for operating and maintaining the hardware and Software according to IEC-62443 standards in order to keep them secure. However, Seller does not warrant that (i) the Software is error free, and all errors may/will be corrected, (ii) Buyer will be able to operate the Software without impairments or interruptions, (iii) the Software achieves any intended results, (iv) the Software is compatible or works with any other goods, services, technologies, information, or materials, and/or (v) the Software is secure, accurate, complete, or free of harmful code. In addition, due to the continuous development of new techniques for intruding upon and attacking networks, Seller does not warrant that the Software or any equipment, system, or network on which the Software is used will be free of vulnerability to intrusion or attack. Products or Services that are networked, connected to the internet or otherwise connected to computers or other devices must be appropriately protected by Buyer and/or end user against unauthorized access.

(8) Software will not include any upgrades, new versions, releases or enhancements (collectively, "Upgrades") to the Software, unless expressly agreed to by Seller at its sole discretion and an additional charge to be determined by Seller. Seller reserves the right, at its sole discretion, to make unscheduled Upgrades to the Software at no charge. To the extent any Upgrades to the Software are provided by Seller, the term "Software" shall be deemed to include such Upgrades.

(9) Seller shall have no liability for Quality Defects that become apparent after the Delivery due to Buyer's failure to implement an update made available by Seller.

NO IMPLIED WARRANTIES

(10) The express warranties Seller makes in this clause 3 are the only warranties it will make. There are no other warranties or conditions, whether statutory, oral, express or implied. In particular, there are no implied warranties of merchantability or fitness for a particular purpose.

4. LIMITATION OF LIABILITY

Notwithstanding any other provision in the Agreement, the following limitations of liability shall apply:

(1) In no event shall Seller or any of its affiliates, subcontractors, sub-suppliers, officers, directors and employees be liable to Buyer or any indemnified party for any: (1) loss of profits or loss of revenue or business opportunity (whether foreseeable or not), loss of use, loss of production, increase of production costs, loss by reason of shutdown of facilities or inability to operate a facility at full capacity, cost of obtaining other means for performing the functions performed by the Products, loss of future contracts, claims of customers, cost of money or loss of use of capital, in each case whether foreseeable or not; or (2) any incidental, indirect, special, consequential, immaterial, moral or punitive damages of any nature.

(2) Seller's (including its affiliates and sub-suppliers) aggregate liability for all claims of any kind, for any loss, damage or expense arising out of or connected with the work or the Agreement or from the performance or breach thereof, together with the cost of performing make good obligations to pass performance tests, shall in no event exceed 10% of the price for the Products, Services and/or Software under the Agreement (the "Contract Price").

(3) The limitations and exclusions of liability set forth in this clause 4 shall take precedence over any other provision of the Agreement and shall apply whether the claim is based on contract, warranty, delict, tort, strict liability, liquidated damages, indemnity, or otherwise. The remedies provided in the Agreement are Buyer's exclusive remedies.

(4) All liability of Seller, its officers, directors, employees, subcontractors, sub-suppliers or affiliated companies, resulting from, arising out of or connected with the Products, the Services, the Software or the Agreement or from the performance or breach thereof shall preclude 24 months upon the commencement of the initial Warranty Period.

5. CHANGES

(1) The parties shall not make any changes to the Products, Services or Software, unless Buyer and Seller have executed a written change order ("Change Order") for such change. Any such Change Order shall include an appropriate adjustment to the Contract Price and the delivery terms. If the change impairs Seller's ability to satisfy any of its obligations, the Change Order shall include appropriate modifications to the Agreement. If, after the date of the quotation or order confirmation, new or revised governmental requirements, standards, regulations, taxes and/or duties become effective ("Changes in Law"), the change shall be subject to this clause 5.

(2) Seller shall be entitled to an extension of time and reimbursement of additional costs (including costs incurred to avoid or mitigate such event) for events that have an impact on Seller's performance of the Agreement, such as, but not limited to, changes, site risks, unforeseen conditions, Buyer's default or delay, Changes in Law, Force Majeure, transport disruption if the respective Agreement involves the international shipment of Products (or parts thereof) or sea freight, or any other reasons not solely attributable to Seller.

6. TAXES

The Contract Price does not include any sales, use, excise or other taxes. In addition to the Contract Price specified in the Agreement, the amount of any present or future sales, use, excise or other tax applicable to the sale or use of the Products, the Software or the performance of Services shall be invoiced to and paid by Buyer, unless Buyer provides a tax exemption certificate acceptable to the relevant taxing authorities.

7. RETENTION OF TITLE

The ownership in the Products shall remain with Seller until all payments will have been made in full. Buyer acknowledges that Seller may file a financing statement or comparable document as required by applicable law and may take all other action it deems reasonably necessary to perfect and maintain such retention of title and to protect Seller's interest in the Products.

8. SET OFF

Neither Buyer nor any of its affiliates shall have any right to set off claims against Seller or any of its affiliates for amounts owed under the Agreement or otherwise.

9. SITE RISKS

(1) Concealed Conditions: Seller shall be entitled to an extension of time and/or reimbursement of additional costs due to any concealed conditions on site or other events and circumstances attributable to Buyer's sphere of influence, such as, but not limited to, strikes of personnel not employed by Seller, lockouts or other industrial disturbances, which have an impact on the performance of Seller's obligations.

(2) Environmental Remediation: Buyer acknowledges that Seller is not an expert in environmental remediation and shall not be directed by Change Order or otherwise to perform any environmental remediation as part of the supply of the Products and/or Services, including, but not limited to, asbestos and lead paint removal. If any environmental remediation becomes necessary, Buyer shall contract directly with a qualified third party to perform such work.

(3) Buyer's obligations: Unless otherwise stated in the Agreement, Buyer shall be responsible for: (i) granting access to Buyer's premises during normal working hours; (ii) providing and instructing Seller with all regulations applicable and to be complied with on Buyer's site; (iii) maintaining the area entirely free of combustible and toxic substances and providing fire protection service until the Service is completed; (iv) protecting and monitoring Seller's materials and supplies used for the Service; (v) the safety of its own staff



working on site. If Buyer does not fulfill its obligations or prevents the Seller from executing the Service, Seller shall be entitled to an extension of time and/or reimbursement of additional costs incurred by the Seller.

10. TERMINATION

- (1) A party may terminate the Agreement, if the other party is in material breach of the Agreement and a cure period of at least 30 days has been granted to the breaching party, which has elapsed without success. In case of such termination by Buyer, Seller shall be compensated for the costs incurred up to the date of termination in relation to the performance of the Agreement.
- (2) A termination for convenience may only be granted to Buyer upon payment of Seller's termination charges, including any costs, overhead and profit incurred and costs incurred arising out of termination, provided, that in no event Seller's termination charges shall be less than 25% of the Contract Price.

11. CONFIDENTIALITY

- (1) "Confidential Information" shall mean all non-public confidential or proprietary information, whether written, oral or in any other form, derived from or produced by the business and operations of Seller, and all confidential or proprietary information of a third party in the possession of Seller, and shall include without limitation any and all trade secrets, techniques, discoveries, ideas, inventions, concepts, software in various states of development, designs, drawings, images, specifications, data, diagrams, research, financial information, economic and financial analyses, processes, strategic plans and analyses, marketing and advertising techniques and materials or plans, customer and vendor names, new product launches, price lists or policies, sales data, employee files, and training materials, and all record bearing media containing or disclosing such information, as well as any such information or media created by or in the possession of Buyer that embodies or is derived from any confidential and/or proprietary information of Seller.
- (2) Buyer acknowledges that the information which Seller shares with Buyer (whether orally, in written form or in any other form) in connection with the quotation, acknowledgment or performance of the Agreement includes Seller's Confidential Information. Buyer agrees not to disclose such Confidential Information to third parties without Seller's prior written consent. Buyer shall not – and agrees to not cause, allow or aid third parties to – analyse, decompile, disassemble, measure the properties of, attempt to derive the source code of, or otherwise reverse-engineer Seller's Confidential Information.

12. INTELLECTUAL PROPERTY

- (1) All intellectual property rights in respect of the design, manufacture and supply of the Products as well as intellectual property vested in drawings, specifications, documents, data and Software made available by Seller to Buyer shall be owned solely by Seller and shall remain its property.
- (2) Seller grants to Buyer a non-exclusive, non-transferable, royalty-free, license to install, operate and maintain the Products. Buyer further agrees that it is not allowed to permit any third party to fabricate the Products or any parts thereof from Seller's drawings or to use the drawings other than in connection with the Agreement. Buyer shall defend and indemnify Seller from and against any claim, suit or liability based on personal injury (including death) or property damage related to any Product or part thereof which is fabricated by a third party without Seller's prior written consent and from and against all related costs, charges and expenses (including attorney fees).
- (3) Seller grants to Buyer a non-exclusive, non-transferable, non-assignable, non-sublicensable, revocable license to install and run the Software for Buyer's business purposes, limited to the configuration of the Products and the operating system for which the Software is ordered and for the end-use purpose stated in the related Seller operating documentation. Buyer agrees that neither it nor any third party shall modify, reverse engineer, decompile, translate, transfer from object code to source code or reproduce the Software, without Seller's prior written consent. Except to the extent that the parties otherwise agree in writing, Buyer's license to use such Software shall terminate upon breach of the Agreement by Buyer, including, without limitation, breach of payment or confidentiality obligations.
- (4) Unless otherwise agreed in writing, the fees for the Software license are included in the Contract Price. Any subsequent Upgrades of the Software made by Seller are, at Seller's option, subject to a fee.

13. MACHINE DATA

- (1) Seller and Seller's affiliates are entitled to Process (as defined below) the Machine Data (as defined below), specifically, but not limited to, facilitating, adapting, maintaining, rectifying, safeguarding, enhancing, and/or developing the Products and/or Services offered by the Seller and its affiliates. Seller and its affiliates are entitled to transfer the Machine Data to and Process it in foreign jurisdictions, particularly those in which Seller and its affiliates conduct business operations. Buyer hereby agrees to secure and maintain all requisite rights that enable Seller and its affiliates to Process the Machine Data.
- (2) "Process" means any operation or set of operations which is performed on the Machine Data or on sets of such data in electronic format, whether or not by automated means, such as collection, recording, organisation, structuring, storage, adaptation or alteration, retrieval, consultation, use, disclosure by transmission, dissemination or otherwise making available, alignment or combination, restriction, erasure or destruction.
- (3) "Machine Data" means any digital representation of acts, facts or information and any compilation of such acts, facts or information, including in the form of sound, visual or audio-visual recording relating to the Products and/or Services, in particular, but not limited to, condition parameters (e.g. temperature, vibration), generated by the use, during maintenance, repair or non-use of the Product or by another device (e.g. sensor, meter whether embedded in the Products, external or remote).
- (4) Subject to the confidentiality obligations as per clause 11, Seller is entitled to keep copies of such Machine Data, files created by automatic computer back-up and archiving procedures and to Process the Machine Data even after expiration or termination of the Agreement.
- (5) Buyer expressly acknowledges and agrees that the consideration for granting this data processing permission, as stipulated in this clause, has been factored into the Contract Price. Accordingly, no fees or remuneration are required to be paid by Seller for such permission.

14. END USER

- (1) If so requested by Seller, Buyer shall issue an End-Use certificate (EUC) for the Products within 10 business days after the Agreement has been concluded. If Buyer does not provide such EUC, Buyer shall defend, indemnify and hold harmless Seller and Seller's directors, officers, employees, agents, subcontractors and sub-suppliers from and against any actions, claims, costs, losses or expenses for which Seller would not have been liable or from which Seller would have been indemnified, if Buyer had obtained such EUC.
- (2) If Buyer resells or otherwise transfers the Products, Buyer ensures compliance with all foreign trade regulations, such as, but not limited to, export control regulations and sanctions, and indemnifies and holds harmless Seller, including its legal representatives, from and against any claims resulting from a violation of these rules. Furthermore, Buyer shall be obliged to name (i) the end user, (ii) the equipment including the serial number, where the Product will be installed and (iii) the country where the Products are used. In the event that Seller is at risk of violating any sanctions, trade embargoes or similar regulations, when fulfilling its contractual obligations, Seller shall be entitled to terminate the Agreement. Seller shall be reimbursed the Contract Price for any completed work, the costs incurred for work in progress (including preparatory work) and costs incurred arising out of termination.



15. FORCE MAJEURE

- (1) "Force Majeure" shall mean all events beyond the reasonable control of either party, whether foreseeable or not, which affect the performance of the Agreement, including, without limitation, acts of public enemy, wars, riots, strikes, acts of authorities, earthquakes, fires, storms, severe weather, floods, epidemics and pandemics, inability to obtain labor or materials from usual sources, or serious accidents involving the work of sub-suppliers.
- (2) Restrictions arising from or in connection with the COVID-19 pandemic (e.g. transport restrictions, delays, facility shutdowns, travel restrictions, border closures, etc.) which make it impossible or unreasonably difficult to comply with the delivery or performance time, shall be deemed to be a Force Majeure event within the meaning of this clause 15, if the specific restriction did not exist at the time the offer was submitted by Seller or was not yet known to the Seller at this time.
- (3) If either Buyer or Seller is unable to carry out its obligations under the Agreement due to Force Majeure, other than the obligation to make payments due hereunder, and the party affected notifies the other of such delay within a reasonable period of time, then all obligations that are affected by Force Majeure shall be suspended or reduced for the period of Force Majeure and for such additional time as is required to resume the performance of its obligations, and the delivery schedule will be adjusted to account for the delay.
- (4) If the period of suspension or reduction of operations will extend for more than 4 consecutive months, then either Buyer or Seller may terminate the Agreement. Seller shall be reimbursed the Contract Price for any completed work, the costs incurred for work in progress (including preparatory work) and costs incurred arising out of the termination.

16. SANCTIONS

The Buyer acknowledges and undertakes that the Buyer shall not (and shall not permit or cause any other person or entity to), directly or indirectly, (a) sell, provide, export, re-export, transfer, lease, deliver or grant access to the Products (any part thereof), any other deliveries, goods, Services or works delivered, provided or to be delivered or provided under or in connection with the Agreement, or (b) license, sublicense, transfer, deliver, grant access or (re)export any intellectual property rights, trade secrets or other information, materials or documents obtained, licensed or accessed under or in connection with the Agreement, to (or for use in) Russia, Belarus, Crimea and non-government controlled areas of the Donetsk, Kherson, Luhansk and Zaporizhzhia oblasts of Ukraine. Breach of this clause shall constitute a material breach of the contract by the Buyer hereunder. The Buyer shall immediately inform the Seller on any actions taken by any person or indications, which would lead to the breach of the foregoing.

17. FINAL PROVISIONS

- (1) If Buyer does not accept delivery according to the Agreement or Seller cannot effect delivery for reasons not solely attributable to Seller, including Force Majeure, the risk of damage to or loss of the Products shall pass to Buyer, any payments due upon or after delivery shall become due, Seller shall be entitled to store the Products in a warehouse of its choice or at Seller's/sub-supplier's premises, Seller shall be entitled to invoice any additional costs incurred, and the Warranty Period shall begin.
- (2) If the parties have expressly agreed in writing on a fixed delivery date, liquidated damages for delay shall apply to the date of delivery or date of last main shipment; all other delivery dates are considered to be indicative only and shall have no binding effect. Seller's liability for late delivery for reasons solely attributable to Seller is limited to the payment of liquidated damages in the amount of 0.5% of the Contract Price of the delayed Product(s) per full week of delay after a 2-week grace period. The aggregate amount of liquidated damages for delay shall be limited to 5% of the Contract Price of the delayed Product(s) and/or the delayed portion of the Services. Liquidated damages shall be Buyer's sole and exclusive remedy for delay. Buyer shall not be entitled to claim liquidated damages, if the delay has not delayed Buyer's ability to use the Products or Services.
- (3) If performance guarantees are expressly agreed between the parties, the following shall apply: Seller's liability for failure to achieve performance guarantees is limited to the payment of liquidated damages pursuant to Seller's acceptance and test protocol. Liquidated damages for non-achievement of performance guarantees shall be limited to 5% of the Contract Price as Buyer's sole and exclusive remedy.
- (4) The aggregate liability for all liquidated damages shall be limited to 10% of the Contract Price.
- (5) Buyer shall promptly notify Seller of any claim for damages in writing, otherwise Buyer shall not be entitled to obtain any compensation.
- (6) Seller represents that any Products or parts thereof manufactured by Seller will be produced in compliance with all applicable mandatory federal, state and local laws applicable to their manufacture and in accordance with Seller's engineering standards. Seller shall not be liable for failure of the Products to comply with any other specifications, standards, laws or regulations.
- (7) The Agreement shall inure only to the benefit of Buyer and Seller and their respective successors and assigns. Neither party shall assign the Agreement or any of the rights or obligations thereunder without the prior written consent of the other party, with the exception of Seller's right to assignment for insurance and financing purposes.
- (8) The Agreement contains the entire and only agreement between the parties with respect to the subject matter thereof and supersedes all prior oral and written understandings between Buyer and Seller concerning the Products, Services and Software and any prior course of dealings or usage of trade not expressly incorporated therein.
- (9) The Agreement may only be modified, supplemented or amended in writing. Seller's waiver of any breach by Buyer of any terms of the Agreement must also be in writing and any waiver by Seller or failure by Seller to enforce any of the terms and conditions of the Agreement at any time shall not affect, limit or waive Seller's right thereafter to enforce and compel strict compliance with every term and condition thereof.
- (10) The Agreement is governed by Brazilian Law excluding its conflict of law rules and the United Nations Convention on Contracts for the International Sale of Goods (CISG).
- (11) Any dispute, controversy or claim arising out of, or in relation to, the Agreement, including the validity, invalidity, breach, or termination thereof, shall be resolved by arbitration in accordance with the Rules of Arbitration of the International Chamber of Commerce in force on the date on which the notice of arbitration is submitted in accordance with those Rules. The number of arbitrators shall be one (for disputes up to 1 million Euro) or three (for disputes with a value higher than 1 million Euro). The seat of the arbitration shall be São Paulo/SP. The arbitral proceedings shall be conducted in English, unless both parties are Brazilian, in which case the language will be Portuguese. Without prejudice to the foregoing, the Seller reserves the right to initiate legal proceedings before the competent court of the Buyer.
- (12) Whenever one or several provisions of the Agreement become (partly or totally) invalid, ineffective or unenforceable, this shall not affect the validity, effectiveness or enforceability of the remaining provisions. An invalid, ineffective or unenforceable provision shall be deemed replaced by a valid, effective and enforceable provision that comes closest to the intended economic result.