

GENERAL BUSINESS CONDITIONS

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1. General

These general business conditions are valid exclusively. Contradictory or conditions deviating from these business conditions of the purchaser are not recognized unless these have been explicitly agreed upon. These general business conditions are also valid if the contract has been executed unconditionally despite knowledge about the contradictory or deviating conditions of the purchaser.

Modifications or deviations from these general business conditions should always be in writing.

The general business conditions are applicable only to undertakings in the sense of § 24 a BGB (common law).

2. Concept definitions

In these general conditions, the below mentioned concepts are to be understood as follows:

- "Contract" means the written contract agreed upon between the two parties regarding the delivery and assembly of the delivery item and all attachments including any additions that have been agreed upon and add-ons to the previously mentioned documents.
- "Delivery item" covers all machines, accessories and other materials and things that are to be delivered by the manufacturer as per the contract.
- "Plant" includes not only the delivery item but also the other tasks that the manufacturer has to perform as per the contract. If the contract specifies that the acceptance of the plant would be in several phases that are interlinked for their usage, then these conditions are to be applied to each phase separately. In such cases, the concept "plant" is then applicable to the respective phase.
- "Contract price" means the price that has to be paid for the plant. If the assembly has to be done within a specific period and if it has not been completed within that period, then the contract price is 10% or another agreed percentage as per the articles 17, 40, 41 and 47.
- "Assembly location" means the place where the delivery item has to be installed and includes the adjoining areas that are needed for unloading, storage and internal transport of the delivery item and the assembling equipment.
- "Written" means either in form of a document signed by the parties or a letter, fax, telegram or telex that can give information about the sender.
- "Gross negligence" describes a deed or omission where the concerned party either did not follow the norms of due diligence and care a responsible contractual partner would have normally envisaged in view of the occurrence of drastic consequences or where the concerned party consciously neglected the consequences of such a deed or omission.

3. Product information

Details and information contained in the product catalogues and price lists are binding to the extent the contract explicitly refers to them.

4. Drawings and Descriptions

- 4.1. If one provides to the other party drawings or technical documents about the plant before or after concluding the contract, these are and remain the property of the giving party. If a party receives diagrams or technical information, it may not use them without the permission of the other party for purposes other than assembling, commissioning, implementation and maintenance of the delivered item. It should not be used for any other purpose, copied, reproduced or handed over to third parties or made public without the permission of the other.
- 4.2. At the start of the period determined under point 17.2, the manufacturer will provide the purchaser information and drawings free of cost to enable the latter to commission, use and maintain the plant. The agreed number of such instructions and drawing should be handed over; but at least one copy should definitely be given. The manufacturer is not responsible for handing over factory drawings for the delivery item or the spare parts.

5. Tests before despatch

- 5.1. The contractually agreed tests will be conducted during normal working hours at the manufacturer's site unless agreed to the contrary. If the contract does not contain any specifications about the technical requirements, then the tests are to be conducted as per the general practice for the respective industry in the country of manufacture.
- 5.2. The manufacturer must inform the purchaser sufficiently in advance so that the latter can be represented at such tests. If the purchaser is not represented, then he will receive from the manufacturer a test report and will not be able to contest its accuracy.
- 5.3. If during such tests, the delivery item is found to be contradictory to the contract, the manufacturer is bound to immediately rectify all defects in order to produce the delivered item in accordance with the contract. The purchaser can ask for re-tests only in the event of major differences.
- 5.4. The manufacturer will bear all costs for the tests conducted at the production site. The purchaser, however, has to bear all travel and boarding and lodging expenses of his representative at the tests.

6. Preparatory work and working conditions

- 6.1. The manufacturer will ensure timely delivery of drawings for the assembly along with all instructions required for preparing the right foundation and providing other equipment on the site where the delivered item is to be installed and to also make the proper connections to the plant.
- 6.2. The purchaser will ensure that all equipment is available on time and create the conditions required for assembling the delivery item and for its faultless functioning. This is not applicable to the preparatory work that is to be done as per the contract by the manufacturer.
- 6.3. The purchaser must perform the preparatory tasks as per the manufacturer's drawings and instructions as mentioned in clause 6.1. The tasks should be completed on time. Under all circumstances, the purchaser should ensure that the foundation is able to withstand the load. If it is the responsibility of the manufacturer to arrange for the transportation of the delivery item to the installation site, then he has to ensure that the delivery item reaches the installation site on time.
- 6.4. The manufacturer will bear all costs for the necessary ad hoc steps that need to be taken due to wrong compliance or non-conformance to the drawings and instructions as per clause 6.1 provided the incompleteness or inaccuracy is detected within the period mentioned under clause 17.2 and is conveyed to the manufacturer.
- 6.5. The purchaser has to ensure that the following conditions are fulfilled:
 - a. The manufacturer's staff can start the work as per the agreed schedule and work during normal working hours. Work can also be done beyond the normal working hours provided the manufacturer feels the need for the same and provided the purchaser is informed about the same within a reasonable period.
 - b. Before starting assembling, the purchaser will inform the manufacturer about the important safety regulations that have to be followed at the installation site. Assembling will not be done under unhygienic or unsafe conditions. All necessary safety and protective measures are to be taken before starting the assembling and are to be complied with in the course of assembling.
 - c. The staff of the manufacturer should have the facility of lodging and boarding in the vicinity of the installation site and also have access to sanitary facilities and medical help that conforms to international standards.
 - d. At the assembling site, the purchaser will provide the manufacturer, punctually and free, all cranes, lifting devices and means of transportation within the installation site, additional devices, machines, materials and operating supplies like petrol, oils, greases and other materials, gas, water, electricity, steam, compressed air, heating, light, etc. as well as all the measuring and testing device owned by the purchaser and available on site. The manufacturer will intimate to the purchaser at least one month prior to starting assembly the cranes, lifting devices, means of transportation within the site that are required.
 - e. The purchaser will provide the manufacturer free of charge the required storage space for protecting the delivery item, the tools and equipment required during assembling and the personal belongings of the staff of the manufacturer against theft and deterioration.
 - f. The access paths to the installation site should be suitable for the transport means required for moving the delivery item, parts and equipment to the site.

7. Non-compliance on part of the purchaser

- 7.1. If the purchaser feels that he will not be able to meet the requirements as per clauses 6.2, 6.3 and 6.5 or if he feels that he is still not ready to receive the delivered item at the installation site or he would not be able to ready the plant in the given time-frame, he has to immediately inform the same to the manufacturer in writing by giving reasons and also mention the date by which he can comply with his responsibilities. The conditions outlined in clause 6.1 are herewith applicable.
- 7.2. If the purchaser cannot comply with his liabilities as per clauses 6.2, 6.3 and 6.5, he will compensate the manufacturer for all costs arising thereof. The purchaser will pay the manufacturer the respective part of the contractual price that would have been due to the manufacturer if the purchaser had complied. In such cases, the manufacturer can at the cost of the purchaser bring about compliance as per his own judgment provided this takes place within a reasonable period of time.

On informing the purchaser in writing, the manufacturer is authorized to stop finalizing the plant for the duration of non-fulfilment on part of the purchaser.

If the delivery item has not yet reached the installation site, the manufacturer will, at the cost and consequences of the purchaser, store the delivery item. If required by the purchaser, the manufacturer will arrange for the insurance at the cost of the purchaser.

- 7.3. If the readying of the plant is not hampered by any of the circumstances mentioned under clause 19.1, the manufacturer can ask the purchaser in writing to complete the unfinished tasks within a stipulated period of time.

Should the purchaser not finish the uncompleted tasks within the given period of time for a reason not attributable to the manufacturer, the manufacturer has the right to withdraw from the contract after intimating in writing.

The manufacturer can then claim for damages suffered by him due to non-fulfilment by the purchaser. The compensation cannot exceed the contract price.

8. Regional laws and regulations

- 8.1. The manufacturer will ensure that the plant is completed in accordance with all the rules and regulations applicable to such plant and ensure conformance to the same. The purchaser, on demand from the manufacturer, will provide the latter with all relevant information about these laws and regulations.

- 8.2. The manufacturer will carry out all restructuring work that is required for compliance with laws and regulations mentioned under clause 8.1 or such that arise from generally recognized design principles provided such a modification is done in the period between the date of submitting the offer and the acceptance. The purchaser will bear all special costs and other financial consequences that may arise from such modifications, esp. for the restructuring work.
- 8.3. If the parties have not reached an understanding about the special costs and other consequences of a modification as per the laws and regulations mentioned under clause 8.1, the manufacturer has to be compensated for the restructuring work done on the basis of number of hours of work until the dispute is settled as per clause 22.1.

9. Modifications

- 9.1. Subject to the regulations outlined in clause 9.5, the purchaser is authorized to ask for modifications with respect to scope, design and structure of the plant until the time of acceptance. The manufacturer can suggest these modifications in writing.
- 9.2. Demands for modification should be conveyed to the manufacturer in writing and should contain a detailed description of the desired modification.
- 9.3. Immediately on receiving a request for modification or making a modifications' suggestion, the manufacturer has to inform the purchaser in writing whether and under what circumstances the modification can be executed and what effects this would have on the contractual price, completion date and other contractual conditions. The manufacturer will also inform the purchaser if these modifications are to be attributed to modified laws and regulations as per clause 8.1.
- 9.4. In the event of delays in completion of the plant due to disagreements between manufacturer and purchaser about the consequences of the changes, the purchaser will pay that part of the contract price that would have been due if the completion of the plant had not been delayed.
- 9.5. Subject to the provisions of clause 22.1, the manufacturer is not bound to carry out the desired modifications till the parties reach an agreement about the effects of these changes either on the contractual price, completion date or other contractual conditions or till such dispute is settled as per clause 22.1.

10. Risk Transfer

The risk of loss or damage to the delivery item is passed on to the purchaser of the delivery item as per the agreed trade clauses that are designed in accordance with the INCOTERMS valid at the time of signing the contract. In case no specific agreement is reached in the contract on this point, the "ex works" (EXW) condition is treated as agreed.

Each type of risk of loss or damage to the plant that does not come under the first paragraph of this clause is passed on after acceptance to the purchaser.

After the risk has been transferred, the purchaser is responsible for any loss, damage to the delivery item or the plant provided such loss or damage cannot be traced back to negligent behaviour of the manufacturer.

11. Acceptance tests

- 11.1. Unless agreed to the contrary, acceptance tests are to be conducted on completion of assembling in order to check whether the plant conform to the contractual conditions about acceptance.

The manufacturer will inform the purchaser in writing when the plant are ready for acceptance testing so that the purchaser has enough time to prepare for these tests and be present in person or proxy at such tests.

The purchaser will bear all costs for the acceptance tests. The manufacturer will bear all costs for his staff and representatives.

- 11.2. The purchaser will provide at his cost power, lubricants, water, fuel, raw materials and other such materials as would be necessary for conducting the acceptance tests and for the last minute adjustments while preparing for the acceptance tests. Further, he will also at his cost build the articles of equipment and provide the necessary manpower and consumables for conducting the acceptance tests.
- 11.3. If the purchaser has received a communication as per clause 11.1 and does not comply with his commitments as per clause 11.2 or hampers the conduct of acceptance testing in any which way, the tests will be deemed to be completed on the day that has been fixed in the communication from the manufacturer as the date of acceptance testing.
- 11.4. The acceptance tests will be conducted during normal working hours. If the contract does not contain any specifications about the technical requirements, the general rules applicable to such tests in the country of the purchaser for the respective branch of industry will be taken as the basis for acceptance testing.
- 11.5. The manufacturer will prepare an acceptance testing report. He will send this report to the purchaser. If the purchaser or his representative are not present at the acceptance tests even after having been informed about the same in accordance with clause 11.1, he will have no right to doubt the accuracy of the acceptance test report.
- 11.6. If at the time of accepting testing, the plant is found to be in contravention of the contract, the manufacturer has to take immediate steps to remove these discrepancies. The purchaser has to immediately demand in writing that acceptance tests may be re-conducted as per the clauses 11.1–11.5. This however is not applicable to minor defects.

12. Acceptance

- 12.1. The plant is considered accepted
- a) If the acceptance tests have been concluded successfully or are considered to have been completed successfully as per clause 11.3 or

- b) If the purchaser has received the written intimation from the manufacturer that the plant is ready provided it meets the contractual conditions for acceptance; this is however valid only in those cases where the parties have not agreed to conduct acceptance tests.

Minor faults that do not hamper the functioning of the plant are not reason enough to refuse acceptance.

- 12.2. The purchaser is not authorized to use the plant or parts thereof before acceptance. In case he does not comply with this, the plant will be deemed accepted if there is no written approval from the manufacturer to this effect. The manufacturer then is freed from his responsibility of conducting acceptance tests.
- 12.3. After acceptance of the plant as per clauses 12.1 or 12.2, the period mentioned in clause 17.2 starts to take effect. The purchaser, on written request from the manufacturer, issues a certificate about the date of acceptance. If the purchaser still fails to issue such a certificate, this will have no effect on the acceptance as per clauses 12.1 and 12.2.

13. Completion/Delays caused by the manufacturer

- 13.1. On acceptance, the plant is considered completed as per clauses 12.1 or 12.2.
- 13.2. If the parties have agreed to a completion period instead of a completion date, then this period comes into effect on the day on which the manufacturer receives the order from the purchaser or on the date of signing the contract – the later date is always applicable.
- 13.3. If the manufacturer can foresee that he will not be in a position to ready the plant on time, he has to inform the purchaser immediately in writing of the same giving reasons and the date when the plant would be completed.
- 13.4. The manufacturer can ask for an extension of the completion period if one of the following reasons for delay is applicable:
- A situation mentioned under clause 19.1
 - Restructuring work as per clause 8.2
 - Modifications as per clauses 9.1 – 9.5 or
 - A deed or omission on the part of the purchaser or
 - The stoppage of fulfilment as per point number 7.2, 14.5 or 20.
- 13.5. The period is to be extended reasonably on the basis of the respective circumstances. This condition is applicable irrespective of whether the delay occurs before or after completion.

It is a delay on the part of the manufacturer if the plant is not completed on the completion date as per clauses 13.1, 13.2 and 13.4. On account of delays caused by the manufacturer, the purchaser has a right to claim the agreed lump-sum compensation amount from the date on which the plant should have been completed.

The lump-sum compensation for damage is fixed at 0.5 % of the contract price for each completed full week. However, the lump-sum compensation shall not exceed 7.5 % of the contract price.

If only one part of the plant is getting delayed, then the lump-sum compensation is based on the contract price corresponding to that part of the plant that cannot be used in the required way due to the delay.

The lump-sum compensation is due on the written claim of the purchaser; however, such claim cannot be made before completion of acceptance procedure or conclusion of the contract as per clause 13.6.

The claim of the purchaser for payment of lump-sum compensation ceases to exist on completion of six months from the date on which the completion should have taken place.

- 13.6. If the delay caused by the manufacturer is so substantial that the purchaser can demand the highest possible amount of lump-sum compensation as per clause 13.5 and the plant has not yet been finished, then the manufacturer can fix a last and final extension period for completion of minimum one week.

If the manufacturer still fails to complete the plant within this last and final completion period and is unable to complete it for reasons that cannot be attributed to the purchaser, the purchaser has the right to withdraw from the contract through written notification for that part of the plant that cannot be put to proper use due to those parts the manufacturer has failed to deliver.

If the purchaser withdraws from the contract, he has the right to demand for compensation for the losses suffered due to the delay on the part of the manufacturer. The entire amount of compensation, including lump-sum compensation as per clause 13.5, shall in no way exceed 15% of the contract price of that part of the plant that has been responsible for the termination of the contract.

- 13.7. The claims of the purchaser in case of delay by the manufacturer are restricted to the lump-sum compensation as per clause 13.5 and withdrawal from the contract with restricted compensation as per clause 13.6. No other claims due to delay will be entertained by the manufacturer if there is no gross negligence on part of the manufacturer.

14. Payments

14.1. If no specific payment terms have been agreed, payment is to be effected in the following manner:

- a) In case of plants and equipment as well as their assembly on time basis:
 - One-third of the agreed price of the delivery item within 30 days of conclusion of the contract;
 - One-third within 30 days of the manufacturer having informed the purchaser that the delivery item or major parts thereof are ready for shipment from production site and
 - One-third within 30 days of the delivery item reaching the assembly site
- b) Payments for assembling are to be made against submission of monthly invoices within 14 days of the date of invoice.
 - 30 % of the contract price including assembling within 30 days of signing the contract;
 - 30 % within 30 days of the manufacturer informing the purchaser that the delivery item or major parts thereof are ready for shipment at the manufacturer's site;
 - 30 % within 30 days of the arrival of the delivery item at the assembly site;
 - The remaining part within 30 days of acceptance.

14.2. In case of assembling on time basis, the following items will be invoiced separately:

- a) All travel expenses borne by the manufacturer for the travel of his staff as well as costs for the transportation of tools and reasonable personal baggage by the type and class of means of transportation agreed upon in the contract;
- b) Lodging expenses including daily allowance for each day of absence of the assembling staff from their residence including holidays and days of rest;
- c) The number of hours of work put in to be counter-signed by the purchaser on the log sheet as proof of hours worked. Overtime, work on Sundays, holidays and at night will be charged at a special rate. The rate is based on the agreement reached in the contract – if no agreement has been reached, then the rates normally charged by the manufacturer are applicable. Unless agreed to the contrary, the hourly rate includes cost of wear and tear to the tools and light equipment of the manufacturer;
- d) The time required for:
 - Preparation and formalities for journeys to site and back..
 - journeys to site and back and other journeys the staff can claim as per the applicable laws or collective bargaining agreements that have been reached in the contrary of the manufacturer;
 - Daily travel to and from the place of accommodation to the assembly site if this is more than half an hour per day as no suitable accommodation is available in the vicinity of the assembly site;
 - Bridging periods when work could not be continued due to circumstances that are not attributable to the manufacturer;

whereby all these items would be charged as per the rates decided under (c).

- e) Contractual expenses incurred by the manufacturer for readying the equipment or a fee for using his heavy equipment tools;
- f) Taxes and fiscal charges the manufacturer has to pay out of the invoice amount in the country where the plant is assembled.

14.3. In case of assembly at a lump-sum charge, the agreed price includes the items mentioned under points 14.2 (a) to (e). If the assembling gets delayed due to reasons attributable to the purchaser or one of his contractual partners but not to the manufacturer, the purchaser will indemnify the manufacturer from

- a) Waiting periods and additional travel time and stay;
- b) Costs and additional work caused due to the delay including dismantling, safety and installation of the assembling equipment;
- c) Additional costs, especially those costs the manufacturer has to incur due to his equipment being blocked at the assembling site for a period longer than estimated;
- d) Additional travel allowance and living expenses for the assembling staff;
- e) Additional financing and insurance costs;
- f) Other costs with respective vouchers incurred by the manufacturer due to deviations from the assembling program.

14.4. Irrespective of the mode of payment used, the payment comes into effect only when the entire amount is credited to the manufacturer's account.

14.5. If the purchaser fails to honor his payment commitments, the manufacturer can demand interest on the due amount with effect from the due date of payment. The interest rate is to be mutually decided. If no agreement has been reached on this point, an annual interest rate of 12 % is applicable. After informing the purchaser in writing, the manufacturer can stop fulfillment of his part of the contractual commitment till the payment is received.

If the purchaser delays the payment for a period exceeding three months, the manufacturer can withdraw from the contract after serving a written notice to the purchaser and demand compensation for the damages incurred. The amount of damages shall in no way exceed the contract price.

15. Retention of ownership

The delivery item remains the property of the manufacturer till the entire payment has been made including payment for assembling the delivery item provided such retention of ownership is effective as per the applicable law.

On the request of the manufacturer, the purchaser will assist him in all efforts to protect the ownership right of the manufacturer to the delivery item in the concerned country.

Retention of ownership in no way affects the provisions about transfer of risk mentioned under clause 10.

16. Liability for material damages before acceptance

16.1. The manufacturer is liable for all damages to the plant before the risk has been transferred to the purchaser. This is applicable independent of the reason for the damage provided the damage has not been directly or indirectly caused by the purchaser.

Even in cases where the manufacturer is not responsible for damages as per this clause, he is bound to rectify the damage on the request of the purchaser.

16.2. The liability of the manufacturer for damages to the property of the purchaser is restricted till the acceptance of the plant to cases where the manufacturer or his sub-contractors have caused this damage due to negligence. The manufacturer is in no way liable for loss of production, profit or other financial consequences.

17. Liability for defects

17.1. As per the clauses 17.2 – 17.15, the manufacturer is liable to rectify any defect in the plant that can be attributed to fault in design, material or construction.

17.2. The liability of the manufacturer is limited to defects in the plant that appear within one year of acceptance. If the daily operation of the plant exceeds the agreed daily quota, the liability period also reduces accordingly. If the acceptance is delayed due to reasons attributable to the purchaser, the liability of the manufacturer for damages ceases to exist with the exception of the cases mentioned under clause 17.3, latest after 18 months calculated from the delivery of the delivery item.

17.3. If the defect in one part of the plant has been removed, the manufacturer is responsible for a period of one year for the replaced or repaired parts under the same conditions as the original plant. For all other parts of the plant, the liability period mentioned under clause 17.2 gets extended for the period for which plant operations are interrupted due to the defect.

17.4. The purchaser should bring to the notice of the manufacturer immediately and in writing all defects that appear. Such a defects complaint should be presented within 2 weeks of the period mentioned under clause 17.2. In case of defects that can cause damage to the plant, the complaint should be lodged immediately.

The complaint should contain a complete description of the defect.

If the purchaser fails to bring the defect to the notice of the manufacturer within the period stipulated in this clause, he loses his right to get the defect rectified.

17.5. On receiving the complaint as per clause 17.4, the manufacturer has to rectify the defect immediately at his costs as per clauses 17.1 – 17.15.

The defect is to be basically rectified at the installation site; however, it is left to the judgment of the manufacturer to have the defective part or delivery item returned for repairs or replacement.

The clauses 6.5 and 16.2 are correspondingly applicable if the repair jobs are done at the installation site.

The manufacturer is responsible for dismantling and re-assembling the delivery item provided this is necessary and needs special expertise. If no special expertise is required, the liability of the manufacturer with respect to defects ceases as soon as the part is repaired properly or replaced and delivered to purchaser.

17.6. If the purchaser has lodged a complaint with the manufacturer as per clause 17.4 and no defect is found that can be attributed to the manufacturer, the purchaser has to refund all such costs incurred by the manufacturer due to the complaint.

17.7. The purchaser at his own cost takes care of the dismantling and reassembling of all such equipment that is not part of the plant if such dismantling is necessary for rectification of the defect.

17.8. Unless agreed to the contrary, the transportation of the delivery item and/or parts thereof to and from the manufacturer for defects attributable to the manufacturer will take place at the cost and consequences of the manufacturer. During such transportation, the purchaser has to follow the instructions given by the manufacturer.

If the plant is not located at the assembly site, the purchaser will bear all additional costs that are incurred by the manufacturer for rectification of defects.

17.9. Replaced defective parts are to be returned to the manufacturer and will become his property.

17.10. If the manufacturer fails to comply with his liabilities as per clause 17.5 within a reasonable period of time, the purchaser can mention a last and final period to the manufacturer and the manufacturer has to fulfill his commitment within this period.

If the manufacturer fails to honor his liability within the given last and final period, the purchaser has the right to get such repairs done by third parties at the cost and consequences of the manufacturer.

If the purchaser or a third party has successfully completed the repairs, then all claims of the purchaser in respect of this defect are settled as soon as the manufacturer refunds reasonable costs to the purchaser.

17.11. If the repairs fail,

- a) The purchaser can ask for a reduction in the contract price to the extent of the reduced value of the plant whereby such a reduction will in no case exceed 15% of the contract price; or
- b) If the defect is so fundamental that the purchaser is no longer interested in the contract, the purchaser can withdraw from the contract after serving a written notice to the manufacturer. The purchaser can ask for compensation for damages to a maximum extent of 15% of the contract price.

17.12. The manufacturer is not responsible for defects arising from the materials provided or the design specified by the purchaser.

17.13. The manufacturer is responsible only for such damages that are caused under adherence to the specified operating conditions and proper usage of the plant.

The manufacturer is not responsible for defects caused by poor maintenance, improper repairs effected by the purchaser or modifications effected without the prior written permission of the manufacturer. The liability of the manufacturer does not extend to normal wear and tear of the plant.

17.14. Without any damage to the specifications under clauses 17.1 – 17.15, the liability of the manufacturer for any part of the plant is restricted to two years from date of acceptance. If the acceptance is delayed due to reasons attributable to the purchaser, the liability of the manufacturer ceases to exist latest on completion of 30 months from the date of delivery of the delivery item.

17.15. Other than the provisions of clauses 17.1 – 17.14, the manufacturer is not responsible for any other defects. This is also applicable to any damage caused by the defect, loss of profit and other indirect losses. However, the restriction of liability of the manufacturer is not applicable in cases of gross negligence.

18. Sharing of liability for damages caused by the plant

The manufacturer is not responsible for material damages caused by the plant when it is in the possession of the purchaser after its completion. Further, the manufacturer undertakes no liability for the damages caused by the products or any other goods that contain finished products of the purchaser.

If the manufacturer receives any claim from a third party for material damages as per the previous paragraph, the purchaser has to indemnify, protect the manufacturer and spare him from any harm.

If a third party makes a claim for damages to either of the parties in the sense of this clause, the party receiving the claim has to immediately inform the other in writing of the same.

The manufacturer and the purchaser are bound to present themselves before a court of law or an arbitration court handling such a claim against one or the other party about the damage supposedly caused by the plant.

The restriction of liability of the manufacturer as per the first paragraph of this clause is not applicable in cases of gross negligence.

19. Acts of God

19.1. Each party has the right to suspend all contractual commitments that are rendered impossible or highly difficult due to the occurrence of the following circumstances: labor conflict and all other acts of higher instance like fire, riots, war, general shifting, uprisings, requisition, confiscation, embargo, restrictions on use of power and delays caused by deliveries from sub-contractors due to the circumstances mentioned under this clause.

If the situation mentioned under this clause arises before signing the contract, the stoppage of fulfillment of contractual liability is permitted only to the extent, as its effects could not be envisaged at the time of signing the contract.

19.2. The party taking recourse to the Acts of God clause has to immediately inform the other party in writing about the start and end of such a situation. If the Act of God restricts the purchaser from fulfilling his contractual commitment, he has to indemnify the manufacturer for costs incurred for safety and protection of the plant.

19.3. Irrespective of all the effects outlined in this general business conditions, each party has the right to withdraw from the contract after issuing a notice to the other if the stoppage of contractual commitment as per clause 17.7 exceeds six months.

20. Foreseen non-fulfilment

Notwithstanding other contrary stipulations outlined in this set of business conditions about stoppage of fulfillment of contractual obligations, each party has the right to stop fulfillment of contractual obligations if the circumstances that have occurred clearly indicate that the other party will not be able to fulfill the contractual commitments. The party stopping fulfillment of contractual obligations has to immediately inform the other party in writing of the same.

21. Consequential damages

Subject to differently worded stipulations mentioned in this set of business conditions, no party can lay a claim against the other for production stoppage, loss of profit, inability to use, contractual losses or any economic or indirect consequential damages.

22. Disputes and applicable law

- 22.1. All disputes arising from the contract will be decided by an arbitration and reconciliation court decree of the Chamber of Commerce Zurich/Switzerland that will institute the necessary proceedings as per the law in the country of the manufacturer.
- 22.2. The contract is subject to the material rights of the country of the manufacturer.

23. The applicability of the UN purchase law is explicitly excluded.