



# GENERAL CONTRACT CONDITIONS

Contract Appendix 0  
Page 1 (13)

Contract designation  
<->

---

CONTENTS	Page
A Validity of the Contract Documents	2
B Obligations of the Supplier	2
C Obligations of the Purchaser	3
D Environmental responsibility	4
E Changed legislation	4
F Changes	4
G Changes in delivery time and force majeure	5
H Compensation for waiting time	6
J Inspection	6
K Test run and Taking-over	7
L Inspection and Acceptance of the Plant	8
M Rectification and renewed inspection	8
N Supplier's liability for guarantees, defects and shortcomings	10
P Liability for patent infringement	11
R Termination	11
S Disputes	13

**Contract designation**  
<->

**Validity of the  
Contract Documents A**

- A1 The Contract Documents can only be changed upon mutual agreement in writing between the Purchaser and the Supplier
- A2 Through this Contract, the intention of which is to set forth the mutual rights and obligations of both parties in detail, the validity of the Purchaser's enquiry, the Supplier's tender, and any other written or oral undertakings presented during contract negotiations, is completely nullified.

**Obligations of  
the Supplier**

**B**

General

B1

- B1.1 The Plant shall be suitable for its purpose specified in the Contract and in conformity with laws, ordinances and legal rules, and instructions and directives issued thereunder, which are in force in the Country on the Contract Day.  
The Plant shall be designed to meet the requirements applicable in the Country on the Contract Day, including the internal and external environments. Materials and workmanship shall be of first-class quality.
- B1.2 The Plant shall be easily accessible for cleaning, inspection, checking and maintenance. It shall also be easy to carry out dismantling, repairs and the replacement of spare parts and components.
- B1.3 The Supplier is under obligation to carry out work in a manner which does not conflict with applicable labour legislation.
- B1.4 The Supplier shall provide the names of all proposed subcontractors supplying goods and work and give the Purchaser the opportunity of considering every subcontractor during a reasonable period of time. A subcontractor not approved by the Purchaser may not be engaged by the Supplier. The Supplier is responsible for ensuring that subcontractors engaged by him are bound by the same conditions as apply to the Supplier in the Contract Documents, including the obligation to take out and maintain adequate insurance. In relation to the Purchaser, the Supplier is always responsible for his obligations under this Contract and nothing herein contained shall relieve the Supplier of his obligations.
- B1.5 The Supplier undertakes to provide the requisite essential spare parts for a period of at least 10 (ten) years from the Taking-over Day. In the case of data processing equipment the same period of time as above shall apply, but instead of "spare parts", "spare parts or replacement unit or repair of such part or unit" shall apply. Should the Supplier's business in regard to the manufacture of goods of the type in question be discontinued, the Supplier may be released from such obligation, subject to the written approval of the Purchaser, by submitting design drawings and other necessary manufacturing documentation to the Purchaser, granting the Purchaser a right to use such documentation for manufacturing the parts in question without let or hindrance of patents, registered designs or other industrial property rights.

Contact man  
at Erection Site

B2

The Supplier shall be represented at the Erection Site by a contact man whom the Purchaser may consult whenever necessary. The contact man shall have the authority to make decisions which are binding on the Supplier in regard to day-to-day technical, environmental and financial matters relating to erection of the Plant and also to receive proposals and recommendations from the Purchaser concerning the Plant in other respects.

Environmental  
risk analysis

B3

Part of the Supplier's duty is to draw and to deliver a comprehensive risk analysis covering the internal and external environments. The risk analysis shall meet the requirements applicable in the Country on the Contract Day.

Errors in drawings  
and instructions

B4

The obligations of the Supplier include the execution of alterations and additional work caused by errors and omissions in drawings, instructions and other documentation for which the Supplier is responsible according to Contract Appendix 5

**Contract designation**  
<->

Control measures	B5	All control measures required by the authorities until the Plant has been approved in accordance with clause L2 - such as X-ray tests, pressure testing, etc., as well as examination of calculations and drawings - shall be attended to and paid for by the Supplier, who shall submit all relevant certificates and reports to the Purchaser without delay.
Test run	B6	The Supplier shall carry out test run for the number of Days and in the manner prescribed in the Contract and in clause K4 of this Contract Appendix.
Training	B7	<p>It is incumbent upon the Supplier to train the Purchaser's personnel in the proper operation of the Plant, taking into account operating, maintenance, environmental and product quality considerations, in accordance with a special plan drawn up by the Supplier in good time before training is scheduled to commence. The plan shall be approved by the Purchaser.</p> <p>The plan shall include the following information:</p> <ul style="list-style-type: none"> <li>- the Supplier's contact man who is responsible for matters relating to training and the instructors who shall assist in carrying out the planned internal training on the premises of the Purchaser,</li> <li>- the time and the personnel resources that the Supplier intends to use for training and the times during which training shall be implemented so that it can be completed by the time specified in the Contract when the Plant shall be completed and ready for test run,</li> <li>- other time and personnel resources that the Supplier intends to use for training,</li> <li>- the information and training that will be provided for achieving a favourable internal and external environment (including minimising the danger of accidents at work), operating reliability and product quality,</li> <li>- the practical instruction and training that the Purchaser's operating and maintenance personnel will receive during the erection period,</li> <li>- how stoppages are to be prevented and how they can be remedied in the quickest and best possible way.</li> <li>- how environmental disturbances can be prevented, how they can best be removed and most quickly.</li> </ul>
Load instructions	B8	The Supplier shall provide load instructions in accordance with clause C2.2.
<b>Obligations of the Purchaser</b>	<b>C</b>	
Contact man	C1	The Purchaser shall be represented by a contact man at the Erection Site whom the Supplier may consult whenever necessary. The contact man shall have the authority to make decisions which are binding on the Purchaser in regard to day-to-day technical, environmental and financial matters relating to erection of the Plant and also to receive proposals and recommendations from the Supplier on matters concerning the Plant in other respects. This contact man shall be responsible for the necessary coordination between the Purchaser's different suppliers.
Construction works	C2	
	C2.1	Not later than the time specified for Erection Commencement Day in the Contract, the Purchaser shall have advanced so far with his undertakings that erection can be commenced and continue without hindrance. However, work that does not constitute a hindrance may be carried out parallel with this.
	C2.2	The Purchaser shall make sure that in the Contract agreed hoisting beams, lifting eyelets, retaining plates, supporting beams, etc. are suitable for the loads specified by the Supplier and are in accordance with the instructions of the Supplier in other respects. The instructions shall be provided in writing and at such a time that they can be taken into account in the Purchaser's calculations and design work for the building.

**Contract designation**  
<->

Erection materials	C3	To a limited extent, against requisitions and at the Supplier's expense, the Purchaser may make available to the Supplier erection materials which are normally included in the Purchaser's stores. However, shortages in the Purchaser's stores must not be cited as a reason for delays in the completion of the Plant.
Erection reports	C4	Reports of joint erection meetings shall be prepared by the Purchaser and forwarded without delay to the parties concerned in accordance with an agreed distribution list.
Test run	C5	The Purchaser is to be responsible for providing the raw materials, utilities and other materials needed for starting-up, commissioning and test run. During test run the Plant shall be staffed by the Purchaser's personnel, including supervisors, who shall carry out test run in accordance with the Supplier's instructions.
<b>Environmental responsibility</b>	<b>D</b>	
Internal environment	D1	
	D1.1	The Plant shall be in compliance with any applicable work environmental legislation as well as with any work environmental permit or decisions from the relevant authority valid for the Purchaser in the Country. Unless otherwise specified in the Contract, responsibility for coordinating safety measures lies with the Purchaser. However, this does not derogate from either party's normal employer responsibility, nor the employer responsibility of any party's subcontractor, for their own personnel, their own or their employees' tools, technical devices and vehicles. In accordance with this, the parties shall be responsible for ensuring that their employees and their subcontractor's employees have been given the necessary training, received appropriate information about regulations concerning order, safety and security at the workplace in accordance with Contract Appendix 12 and other regulations and instructions issued by the authorities for the work concerned. Necessary documentation for the work environment plan shall be drawn up by the Supplier in accordance with legislation and, without being requested, submitted to the Purchaser.
	D1.2	It is incumbent upon the party that is not responsible for coordination to abide by the coordinator's instructions, participate in the safety organisation and joint safety inspection rounds, and to comply with the general regulations concerning order and safety which are applicable at the workplace. The party shall also be responsible for ensuring that his personnel observe the regulations and instructions issued by the coordinator.
External environment	D2	
	D2.1	The responsibility for coordinating safety measures lies with the Purchaser. The Purchaser bears the responsibility for his and the subcontractor's workers having the requisite training, and having obtained the proper information regarding environment regulations applicable to the worksite according to contract appendix 12 and other regulations and instructions issued by authorities relevant to the work.
<b>Changed legislation</b>	<b>E</b>	
		Should there, after the Contract Day, be changes in laws, ordinances and legal rules, or instructions or directives issued thereunder, which result in special measures or modifications needing to be taken concerning the Plant, the parties shall, upon the request of either party, confer without delay with a view to having the Plant built in such a manner that the changed requirements will be satisfied. The parties shall endeavour to keep the costs (including operating and maintenance costs) of the necessary modifications as low as possible. Any extra costs caused to the Supplier shall to a reasonable extent be paid by the Purchaser.
<b>Changes</b>	<b>F</b>	
	F1	The Supplier shall not be entitled to make any changes to the agreed design of the Plant without the written approval and consent of the Purchaser.
	F2	In regard to equipment and operation, the Plant shall be of the latest design at the time of signing the Contract. Should any improvements or innovations which can be incorporated in the design of the Plant or used in connection with its operation become available, the Supplier shall offer the Purchaser such technological advances at no extra cost, provided that this does not entail higher manufacturing or erection costs.

**Contract designation**  
<->

- F3 At the request of the Purchaser, the Supplier is obliged to carry out such changes in the Plant as may be found suitable and possible to implement, provided that the changes entail no extra costs or risk of delivery delays and do not adversely affect guarantees. Cost-reducing changes shall result in a price reduction.
- F4 In agreements as set forth in clauses F1, F2 or F3, changes in price, delivery time or guarantees, if any, shall be specifically indicated.

**Changes in  
delivery time  
and force majeure G**

Changes in  
delivery time

- G1
- G1.1 Should the Purchaser fail to fulfil his contractual undertakings in the right time, or in the event of any other hindrance for which the Purchaser is responsible, the delivery time shall be extended by as long a period of time as the Supplier has demonstrably been hindered by this, either directly or indirectly. If the Supplier has demonstrably incurred extra costs as a result of this, these costs shall be paid by the Purchaser unless force majeure as set forth in clause G3 is shown to be applicable.
- G1.2 If it is not possible to deliver the Goods at the time prescribed in the Contract owing to circumstances related to the Purchaser, the Purchaser shall arrange new storage facilities and, unless force majeure as set forth in clause G3 is applicable, pay all resulting extra costs, including supplementary insurance, which the Supplier has incurred.

Notification of  
changes in  
delivery time

- G2 When circumstances have come to the knowledge of the Supplier or the Purchaser which, in the opinion of the party concerned, constitute a reason for changing the delivery time, it is incumbent upon the party to notify the other party promptly in writing. The Contract Parties shall subsequently discuss what is to be done in the situation that has arisen.

Force majeure

- G3
- G3.1 If fulfilment of either party's obligations according to the terms of the Contract is impeded by a labour conflict or circumstances over which the party has no control, such as war, mobilisation or military conscription of corresponding extent, requisition, confiscation, rebellion, intervention of the authorities, natural disaster, fire, explosion or similar event, it shall constitute grounds for discharge from liability. To constitute grounds for discharge from liability, the cited circumstance must have occurred after the Contract Day and not reasonably have been possible to foresee, avoid or prevent.
- G3.2 Defects in or delay of delivery from a subcontractor can be cited as grounds for discharge from liability only to the extent that the defect or delay is due to circumstances which, in accordance with clause G3.1, would also have constituted grounds for discharge from liability on the part of the subcontractor.
- G3.3 "Grounds for discharge from liability" means that the party is discharged from the liability to fulfil the obligation during such time as fulfilment must of necessity be postponed as a result of the circumstances or the taking of reasonable measures to overcome them.

Notification of  
force majeure

- G4 For circumstances to be cited as grounds for discharge from liability, the party affected by the circumstances must, after having taken cognisance of the circumstances, notify the other party in writing without delay about the circumstances and their estimated duration. The parties shall subsequently consult with each other about what is to be done in the situation that has arisen.

**Contract designation**  
<->

---

**Compensation for  
waiting time**

**H**

- H1 If the Supplier's personnel are hindered in their work at the Erection Site by reason of uncompleted preparatory work of an essential nature for erection purposes or for other reasons attributable to the Purchaser, the Purchaser shall pay compensation to the Supplier for waiting time at the Erection Site in accordance with the Contract and in addition reimburse the Supplier for other direct expenses arising out of such waiting time as are not covered by the waiting time compensation amount.
- H2 The Purchaser's contact man shall be advised of expected waiting time.
- H3 The Supplier is under an obligation to make reasonable changes in his work plan as requested by the Purchaser's contact man in order to minimise the waiting time.
- H4 Waiting time that arises shall be reported immediately to the Purchaser's contact man. Time sheets in respect of waiting time must be attested daily by the contact man in order for compensation to be paid.
- H5 If the waiting time exceeds 7 (seven) weekdays, both the Purchaser and the Supplier shall be entitled to request the removal of all or part of the Supplier's personnel from the Erection Site. In such event, the Purchaser's obligation to compensate the Supplier ceases with effect from the day after the day on which such request has been made. If the request has been made by the Purchaser, he shall be under an obligation to compensate the Supplier for the extra travelling and accommodation expenses of the personnel concerned.

**Inspection**

**J**

- J1 The Purchaser and the supervisors and inspectors appointed by him pursuant to the Contract are entitled to inspect the construction and erection of the Plant as set forth in the Contract and to ensure that the established time schedules are met.
- J2 While carrying out their inspection as above, the supervisors and inspectors will be acting on behalf of the Purchaser. The Supplier shall take heed of justified remarks and observations and adopt the necessary measures to rectify faults and deficiencies pointed out by the Purchaser or his supervisors and inspectors.
- J3 The Supplier is responsible for the correct and conscientious performance of the work. The fact that the Purchaser or his supervisors and inspectors have approved drawings and inspected manufacture and erection does not relieve the Supplier of his responsibility according to the Contract.
- J4 Drawings and specifications which the Supplier has submitted to the Purchaser or his supervisors and inspectors for review and inspection shall be examined as soon as possible. The Supplier shall be notified in writing of approval or any remarks and observations within 14 (fourteen) days of the date on which the documents were received by the Purchaser. If such notification has not been communicated to the Supplier within the said period of time, it is incumbent upon the Supplier to inform the Purchaser of this by telecommunications and in writing. Should the Supplier subsequently receive no such notification, the regulations in clause G 1.1 shall be applied.
- J5 The Supplier shall ensure that the Purchaser and his supervisors and inspectors have free access to workplaces where constituent parts of the Plant are manufactured, assembled or tested so that they can inspect the work in progress. The Purchaser is entitled to carry out environment checks and inspections of the Supplier both on the manufacturing site and the installation site. Production must not be unduly disturbed by this, however.
- J6 Unless otherwise agreed, such tests and examinations as are normally carried out in connection with inspection of plants in general and constituent parts thereof, shall be conducted in the presence of the Purchaser and/or his supervisors and inspectors as soon as the work in question has progressed so far that testing should be commenced. The Purchaser or his supervisors and inspectors shall be advised in good time of the time suitable for testing.

**Contract designation**  
<->

	J7	Testing carried out at the Supplier's workshops or those of his subcontractors shall be arranged by the Supplier at his own expense. Costs incurred by the Purchaser and/or his agent or agents, supervisors and inspectors in connection with the testing referred to here shall be borne by the Purchaser.
	J8	Should inspection fail to result in approval, the Supplier must immediately rectify the faults/deficiencies. If such serious faults and/or deficiencies in the Plant or its constituent parts are pointed out that renewed inspection of certain parts or functions is considered necessary, such renewed inspection shall take place as soon as the Supplier has completed the necessary alterations and supplementary work. The cost of renewed inspection, including the expenses of the Purchaser's supervisors and inspectors, shall be borne by the Supplier.
<b>Test run and taking-over</b>	<b>K</b>	
Erection Completion Day	K1	When the Supplier has completed erection so that the Plant is ready for commissioning, the Purchaser shall be notified of this in writing. The day on which such well-founded notification reaches the Purchaser and the Purchaser, in writing to the Supplier confirms that erection is completed and that the Plant is ready for commissioning constitutes the Erection Completion Day. The Purchaser shall provide the Supplier with such written confirmation without delay.
Start-up and Commissioning	K2	The above-mentioned notification shall be followed by start-up and commissioning of the Plant after the Purchaser has had time, according to the project time schedule, to complete the necessary supplementary work required from the Purchaser. Start-up and commissioning are to be performed as a test which shall cover all functions and commissioning work using appropriate media and raw materials.
Notification of test run	K3	When the above testing and agreed necessary training have been completed, the Supplier shall notify the Purchaser in writing to the effect that the Plant has been completed and is ready for test run.
Test run	K4	
	K4.1	When well-founded notification according to clause K3 has reached the Purchaser, test run shall be carried out for the number of days stipulated in the Contract, whereby the Plant is to be put into operation and all of its functions to be thoroughly tested.
	K4.2	In determining whether or not trouble-free test run has been achieved, disturbances - and their total duration - which are caused by circumstances outside the contractual limits of the Plant, or which do not permit normal operation of the Plant on account of conditions due to the Purchaser, shall not be counted as stoppages. Examples of such circumstances are standstills or reduced operation due to a shortage of orders, a shortage of raw materials or raw materials which are clearly of unsatisfactory quality, interruptions in the supply of electric power or other utilities, machine breakdowns outside the contractual limits of the Plant, breakdowns in other departments and similar events which are not caused by the test run.
	K4.3	If disturbances which are not to be counted as stoppages occur, new test run shall, should the Purchaser so request, be arranged if these disturbances alone, or in combination with other stoppages, have been of such long duration or have occurred so often that operation has not been carried out without any disturbances in a continuous sequence for at least half the test run time specified in the Contract. The cost of such renewed test run shall be borne by the Purchaser.

**Contract designation**  
<->

---

Taking-over Day	K5	
	K5.1	When trouble-free test run of the Plant according to the Contract, has been carried out, the Supplier shall notify the Purchaser of this in writing. The day on which such well-founded notification reaches the Purchaser and the Purchaser, in writing to the Supplier confirms that a trouble-free test run has been carried out shall constitute the Taking-over Day. The Purchaser shall provide the Supplier with such written confirmation without delay.
	K5.2	The Purchaser takes over the Plant on the Taking-over Day defined above. This does not constitute approval of the Plant.
	K5.3	Any work necessary for completion of the Plant still remaining on the Taking-over Day shall be carried out by the Supplier as soon as conditions at the Erection Site permit.
	K5.4	If the Supplier, for a reason attributable to the Purchaser which cannot be considered force majeure as described in clause G3, is unable to complete the Plant and carry out test run within the period of time stipulated in the Contract, then the Taking-over Day, from the viewpoint of payment, shall still be considered to have been achieved at the aforementioned time. When the reason preventing completion of the Plant has been removed, start-up and test run shall be carried out as above. Should the reason preventing completion and taking over not have been removed within a reasonable period of time, the parties shall, at the written request of either party, agree on a date that shall be considered to constitute the Taking-over Day.
<b>Inspection and Acceptance of the Plant</b>	L	
Inspection of the Plant	L1	
	L1.1	Inspection of the Plant embraces final inspection as well as performance testing. Inspection shall be carried out with the aim of ascertaining whether the Plant fulfils all the data and requirements specified in clause L1.3. Defects or shortcomings which existed at the time of inspection but which were not noticed then may be pointed out later, but not later than the expiration of the guarantee period. However, the Purchaser may also cite the defects or shortcomings after the expiration of the guarantee period, stipulated in clause N2.1, if the Supplier has acted with intent or been guilty of gross negligence.
	L1.2	Inspection shall be carried out by the inspectors mentioned in the Contract in the presence of the Purchaser's and the Supplier's representatives and - if the Purchaser considers such inspection necessary - the Purchaser shall demand it of the Supplier within 4 (four) months of the Taking-over Day. If the Purchaser does not call for inspection to be carried out within this time, the Plant shall be considered accepted when 4 (four) months have passed since the Taking-over Day. If the Purchaser has called for inspection as above, it shall be carried out as soon as possible afterwards. It is incumbent upon the inspectors to summon the Purchaser and Supplier to the Plant for its inspection.
	L1.3	In connection with inspection, the inspectors shall determine whether or not the Plant meets the guarantees specified in Contract Appendix 2 concerning operating and performance characteristics and whether Plant status in other respects is as specified in the Contract.
	L1.4	The inspection report shall be issued not later than 2 (two) months after conclusion of inspection and shall be forwarded to the parties by registered letter with proof of delivery within the same period of time.
	L1.5	The costs of inspection and the inspection report shall be borne by the Purchaser unless otherwise specified in the Contract. However, the Supplier shall bear the costs in respect of his own employees and representatives.

**Contract designation**  
<->

---

Acceptance of  
the Plant

L2

- L2.1 The inspection report shall state whether the Plant has been accepted or not. Further, existing defects and shortcomings shall be carefully noted in the report. If renewed inspection or partial inspection is to be carried out, this shall be specially stated in the report as well as the time for such inspection (cf. clause M).
- L2.2 Minor defects or shortcomings that do not prevent the Purchaser from using the Plant for the purpose specified in the Contract and with the performance guaranteed may not constitute a reason for postponing approval of the same. If renewed inspection is required or if the inspection has not yielded an approved result, the defects and shortcomings shall be rectified within the period specified in the inspection report (cf. clause M) or by a time which is agreed between the Purchaser and the Supplier
- L2.3 In the event that inspection of the Plant results in it not being accepted, the Purchaser shall still be entitled to use the Plant, or part of it, until such time as it has been put into appropriate condition and meets the requirements set forth in the Contract, to the extent that this is judged to be possible without risk of serious damage.
- L2.4 Should either the Purchaser or the Supplier be dissatisfied with the inspection report, each party is entitled to refer the question of defects or shortcomings and acceptance of the Plant for arbitration in accordance with the provisions of clause S, which shall be called for by the party concerned within 6 (six) weeks of the time the inspection report reached the party in question. Otherwise, the parties shall abide by the inspection report. If arbitration is demanded, the arbitrators shall be empowered to review not only the inspector's legal assessments but also his actual findings.

**Rectification and  
renewed inspection M**

- M1 The Supplier shall at his own expense take the measures that are found to be necessary in order to fulfil the guarantees stipulated in the Contract Documents, and to put the Plant into a proper operating condition, and in other respects to satisfy the requirements set forth in the Contract.
- M2 Necessary measures for rectifying defects or shortcomings in the Plant shall be carried out as soon as possible and at a time that the Purchaser finds suitable. Should such serious defects or shortcomings occur in the Plant that renewed inspection of certain parts or functions of the Plant, or the Plant as a whole, must be carried out, such inspection shall take place at the time indicated by the inspectors in the inspection report. However, the Contract parties shall be given an opportunity to state their views as to a suitable time for the inspection and reasonable time in which to carry out necessary alteration and supplementary work. The cost of renewed inspection is to be borne by the Supplier. However, the Purchaser is to make raw materials, operating media and operating personnel available at the Erection Site free of charge.
- M3 If the Supplier fails within reasonable time, or within the time specified in the inspection report, to carry out the necessary rectification of faults and/or deficiencies in order to fulfil guarantees and put the Plant into an appropriate condition so that it meets the requirements set forth in the Contract, the Purchaser shall be entitled to take such measures at the expense of the Supplier, provided that in so doing the Purchaser proceeds with discretion.
- M4 The regulations set forth above under M are also applicable to the defects and shortcomings that existed when inspection was carried out but were not noticed at that time (cf. clause L1.1).

**Contract designation**  
<->

---

**Liabilities of the Supplier  
for guarantees, defects  
and shortcomings N**

Functional  
guarantees

N1

- N1.1 Should the inspection show that the Plant does not meet the guarantees stipulated in the Contract Documents, or should the Plant otherwise have defects and shortcomings, or should such defects and shortcomings as the Purchaser is entitled to cite in accordance with the third sentence in clause L1.1 come to light after the inspection, the Supplier shall rectify this in accordance with clause M and also compensate the Purchaser for his direct losses connected therewith.
- N1.2 If failure to comply with the stipulations in clause N1 is an intentional act or due to gross negligence on the part of the Supplier, the Supplier shall be under obligation to pay the Purchaser damages and compensation in full for all losses, both direct and indirect, sustained by him.
- N1.3 Should the Purchaser terminate the Contract due to lack of compliance in accordance with clause R, the regulations in clause R shall be applicable instead of the provisions of this clause N1.

Mechanical  
guarantees, etc.

N2

- N2.1 With the Purchaser's operating conditions which are applicable to the Plant, the Supplier guarantees for a period of 24 (twenty-four) months the proper design and construction of the Plant's parts and components, the proper quality and nature of the materials, and the careful and conscientious workmanship of all work. However, the guarantee responsibility does not apply to wear parts.
- N2.2 The guarantee period shall be counted from the Taking-over Day. In regard to parts which have been repaired or exchanged, the guarantee period shall be counted from the day on which the appropriate measure was taken. However the Guarantee period shall extend for a maximum of 48 months from the Taking-over Day. Should individual components be subject to frequent replacement during the guarantee period it is incumbent on the Supplier to carry out a design modification which eliminates this problem.
- N2.3 It is incumbent upon the Supplier after received written request to rectify promptly, and at a time accepted by the Purchaser, at his own expense such defects and shortcomings in respect of design, materials and workmanship as have come to light in the Plant during the guarantee period and to compensate the Purchaser for his direct losses caused by the defects/shortcomings. Should the Supplier omit within reasonable time to carry out the necessary rectification of defects and/or shortcomings in order to put the Plant into the condition required by the Contract, the Purchaser shall be entitled to take such measures at the expense of the Supplier, provided that in so doing the Purchaser proceeds with discretion.
- N2.4 If defects or shortcomings are due to an intentional act or gross negligence on the part of the Supplier, or if the Supplier has acted with intent or been guilty of gross negligence in connection with the correction or rectification of defects or shortcomings, the Supplier shall pay the Purchaser damages and compensation in full for all losses, both direct and indirect, sustained by him.
- N2.5 Complaints concerning defects or shortcomings in the Plant which have come to light during the guarantee period shall be submitted in writing without delay. If notification is not made within 1 (one) month from the discovery of such faults or deficiencies, the Purchaser loses his right to call attention to the defect or shortcoming.

**Contract designation**  
<->

- 
- N2.6 The guarantee liability does not extend to defects which are caused by incorrect handling, negligent maintenance, overloads or normal wear and tear, provided that the incorrect handling, etc., has not been due to incorrect or incomplete instructions on the part of the Supplier.
- N2.7 Should the Purchaser terminate the Contract due to lack of compliance in accordance with clause R, the regulations in clause R shall be applicable instead of the provisions of this clause N2.

**Liability for patent infringement**

**P**

- P1 The Supplier guarantees that the Purchaser can use the Plant or part of it in the Country without infringing another party's patent rights.
- P2 The Supplier shall compensate the Purchaser for direct losses which may be incurred as a result of patent infringement, such as:
- the necessary cost of a licence which entitles the Purchaser to use the Plant in the intended manner
  - replacement or modification of the Plant or part of it with other equipment which does not infringe any patent
  - the possible taking back of the Plant, including the extra cost of a new plant
  - damages, administrative and legal expenses as a result of patent infringement or patent disputes.

The Supplier shall not be under any obligation to compensate for loss of production or other indirect loss unless the Supplier has been guilty of an intentional act or due to gross negligence in giving his guarantees or has neglected - following notification by the Purchaser of patent infringement - to bring sufficient resources in order to help the Purchaser quickly and effectively avoid the infringement situation, such as by obtaining a licence or procuring other equipment which does not infringe any patent.

- P3 The Supplier shall not be responsible to the Purchaser for any claims regarding infringement which are based on the Plant having been used in a manner for which it has not been designed or in any other manner which is in contradiction with the Contract.
- P4 The Supplier is not bound by any contract, judgement or similar concerning infringement of patent, if compensation for such infringement has been agreed by the Purchaser with a third party without the Supplier's consent or has been decided in legal proceedings in which the Supplier has not been offered the right to - as and when legally possible - appear on the Purchaser's behalf.
- P5 If the Supplier does not within reasonable time take sufficient steps to solve patent infringement the Purchaser has the right and option to take necessary measures on the Suppliers account.

**Termination**

**R**

Delayed delivery

**R1**

- R1.1 If the Plant or any part of it has been delayed to such an extent that the Purchaser is entitled to the maximum liquidated damages for late delivery in accordance with the Contract, the Purchaser shall have the right, after notifying the Supplier in writing and consulting with him, to determine a reasonable final deadline for completion of the Plant. Should the Supplier fail to meet this deadline, the Purchaser shall be entitled to terminate the Contract and the Supplier will be under obligation to pay compensation in accordance with this clause R for the loss incurred by the Purchaser owing to the Supplier's delay.
- R1.2 Should it become evident even before completion of the Plant that the Supplier has no possibility of fulfilling an essential obligation under the Contract, or of fulfilling this obligation without

**Contract designation**  
<->

		considerable delay, the Purchaser shall be entitled to terminate the Contract and the Supplier will be under obligation to pay compensation in accordance with this clause R for the loss incurred by the Purchaser owing to the Supplier's inability to fulfil his obligations.
Failed inspection, etc	R2	Should the Plant fail the inspection for reason attributable to the Supplier, or should the Plant subsequently, in the manner set forth in clause L1.1, suffer from serious defects or shortcomings, and should defects or shortcomings not be rectified after the Supplier has been given reasonable time for rectification in accordance with clause M, the Purchaser shall be entitled to terminate the Contract and the Supplier will be under obligation to pay compensation in accordance with this clause R for the loss that has been incurred by the Purchaser. The Contract may not be terminated if the defect/shortcoming is negligible.
Insolvency of the Supplier	R3	If the Supplier is declared bankrupt or otherwise becomes insolvent to such an extent that he cannot be expected to fulfil his obligations under this Contract, the Purchaser shall be entitled to terminate the Contract.
Rules regarding termination by the Purchaser	R4	
	R4.1	If the Contract is terminated due to any of the circumstances set forth in clauses R1, R2 and R3, but the Purchaser nonetheless wishes to keep a certain completed part of the Plant, the Purchaser shall be entitled to do so and the Supplier shall then be credited for the completed part of the Plant which the Purchaser wishes to keep. This part of the Plant shall be valued on the basis of its type and nature and the contract price as the value of the Plant in its entirety. In addition, it is incumbent upon the Supplier to compensate the Purchaser for the reasonable costs incurred by him in putting the Plant into an appropriate condition so that it meets the requirements set forth in the Contract. Should the parties fail to reach agreement in regard to valuing that part of the Plant which the Purchaser is to keep, such valuation shall take place through arbitration in accordance with clause S. The parties shall here exert themselves to settle their differences on a single occasion and without delay.
	R4.2	The Supplier is under obligation to assist the Purchaser, or the new Supplier appointed by him, in taking over the Supplier's rights under the agreements entered into concerning the Plant. In this connection, the Supplier shall be entitled to reasonable compensation for his costs.
	R4.3	Against reasonable compensation the Purchaser, or the new Supplier appointed by him, shall be entitled to take over and/or lease all materials, machinery, tools and other erection equipment existing at the erection site for the purpose of continuing the work at the said site. The Supplier shall be under obligation to cooperate with the Purchaser in reaching such a solution.
	R4.4	The Purchaser shall be entitled to compensation for direct losses which he has suffered as a result of a breach of contract on part of the Supplier and which has given rise to termination of the Contract. If the termination is due to an intentional act or to gross negligence on the part of the Supplier, the Supplier shall also compensate for indirect losses. In the event of delayed delivery, however, the Supplier shall be under obligation to pay liquidated damages in accordance with this Contract in addition to compensation according to this clause R, and in the event of defects or shortcomings (including deficiencies in performance characteristics) to pay the special compensation for such defects or shortcomings as stipulated in the Contract Documents.
Delayed payment by the Purchaser and the Purchaser's insolvency	R5	
	R5.1	If the Purchaser fails despite a reminder to pay an instalment within 3 (three) months from the due date, and if the delay is not due to force majeure according to clause G3.3, or if it is evident that the Purchaser is insolvent, the Supplier shall be entitled to terminate the Contract with the same right to compensation for loss as follows above from clause R4.4, first and second sentence.



**Contract designation**  
<->

---

R5.2 However, termination of the Contract shall not be deemed to have taken place if the Purchaser pays the due amount within 14 (fourteen) days of having received the Supplier's notification of termination or, in the case of the Purchaser's insolvency, provides the Supplier with acceptable security within the same period of time.

Force majeure R6 Irrespective of which of the parties is hindered by conditions of force majeure, either party shall be entitled to terminate the Contract due to force majeure according to clause G3.1 if the hindrance is of such duration or of such a drastic nature that fulfilment of the Contract would be unreasonably burdensome on the party concerned.

Notification R7 To be legally binding, notification of termination of the Contract shall be made in writing and sent by registered letter, telefax or e-mail. The reasons for terminating the Contract shall be given in the notification. If notification of termination of the Contract has been made by registered letter, it shall be considered to have reached the addressee 4 (four) days after being posted. If notification of termination of the Contract has been made by telefax or e-mail, it shall be considered to have reached the addressee on the date the telefax or e-mail was transmitted.

**Disputes**

**S**

S1 This Contract shall be governed by the law of the country of the Purchaser.

S2 Any dispute arising out of or in connection with the Contract shall be finally settled under the Rules of Arbitration of the International Chamber of Commerce by one or more arbitrators appointed in accordance with the said rules.

S3 Unless otherwise agreed, the arbitration shall take place in the capital of the country of the Purchaser.