thinks beyond planning

General Conditions

1 Validity of the general conditions

a) The general conditions mentioned hereafter are decisive, unless specified differently in our preceding offer.
b) Conditions of the client are not valid, unless TBP (TBP-Engineering) did not explicitly agree and confirm in writing.
c) If an order confirmation of TBP contains changes of the order and the client fails to contradict immediately in writing, changes will be considered as accepted.

2 Offers and settlements

a) Any change in the nature and of the scope of work, described in our quotation, as well as sub-agreements and supplements will be subject to written agreement. Any specifications in transmitted documents, either as pictures, drawings, measurements, weight- and performance data, are to be considered as estimated preliminary values, unless expressly marked "final".
c) Agreement of design- and engineering work on the one hand, and work for the establishment and/or for the operation of the plant (supervision) on the other hand, shall be considered as legally separate contracts.

3 Change of Work

TBP is entitled to make small or urgent design changes which, in the course of planning, turn out to be necessary or useful, even without the agreement of the Client.

4 Indications and Scope of Work

a) The Client will deliver all agreed upon data and further necessary information in due time. He will inform TBP - even without request - about facts and data which are useful for the realization of TBP´s work.
b) The Client will deliver at the correct time all documents mentioned in the contract, serving as a basis for the work, for example the supply of drawings, mode of contracting of supplies, compilation of documents for approval and permits etc.
c) If the contract establishes the use of Client-specific standards (for example internal company standards) or standards which are not commonly used in Europe, the Client will supply these standards at the correct time.
d) Technical-, security-, civil- or other rules and regulations in force in the Client's country have to be brought to TBP´s notice, as far as they are important for the planning and installation of the plant. TBP will not be liable for any consequences of Client's omission to advise TBP of such regulations.

5 Approval of Documents

a) TBP will verify documents handed over by the Client to the extent as specially agreed. TBP is liable for such verification only if expressly stipulated in the contract.
b) The Client will accept TBP´s preliminary work or part of its work - preliminary layouts, reports, etc. - by written acknowledgement and by such time that TBP´s further work will not be delayed.

6 Approval by Authorities

The Client must obtain all necessary legal permits.

7 Call for Tenders

If TBP is engaged to call for tenders, this will be executed on behalf of and for the account of the Client. As a trustee of the Client, TBP will not represent interests of third parties or suppliers.

8 Experts

TBP is entitled to engage and consult experts at a reasonable extent.

9 Confidentiality of Work Supplied

a) The Client will apply the work delivered by TBP, drawings, calculations and other documents only to the plant under consideration.
b) Protected copyright for drawings, prospectus, reports, technical documents etc. from TBP:
Any publication, completely or partly, only with agreement of TBP; As well as transmittal and repeatedly use by third parties or by the client.
c) The Client will only allow access to TBP´s documents to a limited number of persons (including sub-suppliers etc.). Client and Client's staff are obliged to maintain secrecy and will hand-over TBP´s work to third parties only for the exclusive use of the plant's construction. Third parties will have the same secrecy obligations as the Client. As far as third parties are competitors in the same line of business, the Client must obtain TBP´s consent prior to any handing-over of TBP´s documents. This is still valid even after the contract has expired.
d) TBP undertakes to respect the confidentiality of any documents or information (know-how) received from the Client, even after expiration of the contract. TBP will take all necessary precaution and will require its staff respect the confidentiality of Client's documents and to omit any handling detrimental to Client's interests. TBP will make Client's documents or know-how accessible to third parties only with written consent of the Client.

10 Visits on Site and Publication

a) TBP is authorised to visit plants realised on base of TBP´s engineering and show them to interested parties, after an appointment agreed with Client.
b) TBP is authorised to make any publication, including photographs of the plant, with the prior authorisation of the Client, who will only refuse authorisation for important reasons.

11 Deadline for Completion

11.1 Time Chart:
Delivery time is always at a time subsequent to delivery of documents, approvals etc. to be delivered by the Client according to contract and after the agreed down-payments. Term of completion is complied with when the work is completed until expiration date and when the Client is advised accordingly. Delivery time will be extended in the case of hindrances being outside of TBP´s influence, such as strikes, lockouts etc. and any unforeseen hindrances beyond TBP´s control and responsibility, no matter if such hindrance has occurred to himself, to a subcontractor or to an expert, to such an extent that the completion and delivery of the work was influenced by that. Commencement and end of such hindrances to be communicated to the Client without delay.

11.2 Notice of termination
In the case of default of delivery, the Client is entitled to dissolve the contract, on the condition that he has allowed a reasonable extension of the delivery period containing expressive deposition, that the contract will be dissolved at the expiration date of the allowed extension.

12 Payments

12.1 Extra Charges

Additional cost for any changes in the work at the request of the Client shall be borne by the Client. The same is valid for additional work caused by delays for which TBP is not responsible.

12.2 Interruption of engineering:

The quoted lump sum price or lump sum prices quoted for parts of the scope of supply apply in case of uninterrupted work according time plan. Delays caused by the client of more than 6 months will entail an increase of 5 % of the lump sum price, more than 12 months will entail an increase of 10 % of the lump sum price.

12.3 Retention and Compensation

Client has to omit retention of payments or compensation due to eventual counter-claims, which are not accepted by TBP.

12.4 Prohibition of assignments

Prohibition of assignments and all conditions as per contract concerning assignment of debts in "General Terms of Business" our customers considered as not written.

13 Mutual set-off prohibition

It is stated that both the Customer and the Contractor are not entitled to charge the other party for any services or costs whatever arising from this offer by using other, parallel, past or uncompleted orders, works or projects.

14 Warranty for Defects

14.1 Repairs

For any defects in its work, also lack of promised qualities, TBP is first liable in that way to repair mistakes on its own account or to do the work again. In the case of such faultness, TBP must be informed in writing without delay. TBP is not liable for mistakes due to changes of nature and scope of work which have not been accepted by TBP.

14.2 Liability

We warrant the correct performance of the works in the sense that we will compensate you for all direct damage (personal injury, damage to property and economic loss, except indirect or consequential damage of any kind) which you can prove to have suffered through our fault, if covered by our third party insurance for engineering purposes, as specified in the General Conditions for Third Party Insurance by Authorised Technical Offices (AHTB), Pol.No. 2/81/39226833, of Generali Versicherung AG.

14.3 Supervision

a) In the case of supervision work by TBP (for example checking of documents, approval and supervision of work done by third parties) TBP will only be liable for its own carelessness and malice aforethought of its managerial employees and only for direct damages on plants realised upon TBP´s engineering.
b) If TBP has, with the agreement of the Client, entrusted third parties with its supervisory work, TBP shall be liable for damages caused by third parties only in the case of lack of due diligence upon selection of third parties. Liability of TBP will not be applied for damages occurred in the event that the Client has entrusted third parties with supervisory work, but without the agreement of TBP. Beyond that, TBP´s liability for lack of control and supervision apply only to the extent of indemnification which Client cannot recover from third parties.
c) However, TBP is liable only for defects which should have been recognised by reasonable checks and for which TBP has not given notice. TBP is not liable for recognised defects reported to third parties or to the Client or in the instance that the Client has been already aware of the defect anyhow.
d) If the supervision work of TBP concerns the supervision of assembly or start-up of plants, the Client is obliged to take out an assembly insurance covering this assembly/start-up supervision under nominal inclusion of TBP. Client will release TBP from claims which are not covered by this insurance. If no insurance is purchased, Client has to release TBP from any claims.

14.4 Estimate of costs and verification of invoices

a) If TBP is obliged to make detailed cost estimates, it will be liable only so far as important equipment indispensable to the working of the plant has not been included in error by TBP.
b) TBP is not liable for the accuracy of prices and calculations given by bidders of equipment.
c) If TBP is required to examine invoices from suppliers of equipment, the subject of examination will be that the prices correspond to contract and, if no prices are agreed, that the prices are not unreasonable. If TBP fails to give notice of any differences, TBP will only be partially liable, in the event that the supplier is not able to realise primary liability.

14.5 Experts

The consequences of defects caused by experts working on behalf of the Client cannot be the subject of claims against TBP. In the case of defects caused by experts working for TBP, TBP will only be liable if it is shown that TBP was negligent in the choice of expert.

14.6 Limitation of liability and exclusion of other liability

Any claims of the Client which are not stated in this quotation, for example such which are not related to default of delivery or faulty engineering, but to breach of secondary duties or to unlawful acts of TBP etc., are excluded, irrespective of whichever legal arguments are brought forward.

15 Inventions; Protection of Inventions

15.1 Improvements and Inventions by TBP

a) Copyrights and inventor's rights, which are included in TBP´s work, are the exclusive property of TBP and cannot be transferred to the Client.
b) Process rights of TBP and other protectional rights, which are embodied in TBP´s work, may be used by the Client only with prior written agreement.

15.2 Infringement of protectional rights

a) TBP affirms, to the best of its knowledge and belief, not to be aware of protectional rights of third parties, which would be opposed to TBP´s work.
TBP will not be liable for infringement of protectional rights of third parties.

16 Place of Performance and Court of Jurisdiction

16.1 Place of performance

TBP´s address is the place of performance unless the nature of the work results in other sites being used.

16.2 Court of jurisdiction

Decision by a Court of Justice at the registered place of business place of TBP or an agreement to go to arbitration; nomination of arbitrator to be made jointly by both parties.