

A COMINDIS Feature: Top 10 Project risks in Plant Engineering and Infrastructure Projects

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During the next weeks COMINDIS will regularly publish a short Memo on the TOP 10 Project Risks based on our experience as legal counsel in the Plant Engineering Industry¹. Of course, any such feature is somewhat subjective and depending on personal experiences and war stories. Interestingly, those risks sound rather simple, and if one asks upon such risks at project trainings, very often you will get a comparable or even identical list. But, at the same time, those simple points were astonishingly often underestimated or simply forgotten in tendering or project implementation.

Project business in plant engineering and infrastructure is a demanding field, both legally, commercially, and technically. To avoid heavy losses, it is important to play in the "champions league" in all these disciplines. You need to know your project as detailed as possible, and this starts - of course - with the contract. Moreover, your team must have excellent knowledge and expertise.

A successful contractor / customer in plant engineering builds a learning and flexible organization with motivated, capable, and interested employees. Failures and Not-To-Dos's are burned into the "corporate memory". Employees disclosing weak points in project tendering / offering phases or during project implementation were not disciplined by the superior but were rather incentivised and awarded if the problem is mitigated. Thus, the "Tone from the Top" plays a significant role - not only in Compliance but also in project business. Legal and commercial trainings are of utmost importance in project business to update the employees upon actual developments and to enable them to handle difficulties especially but not limited to EPC-projects properly. COMINDIS offers upon request a wide range of trainings for all experience levels: for beginners as well as for experienced employees. COMINDIS co-operates with top global expert consultants to provide interdisciplinary insights.

An organization which ignores or forgets failures by setting wrong incentives or due to cultural issues (shoot the messenger and hide its problems) and a frustrating tone from the top, will very likely fail. At least in the medium term, such a corporate

¹ Please be aware that this publication shall not be taken as a legal advise. Any project requires intensive legal review and negotiations with the contractual partner.

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environment will probably lead to a downward spiral, a series of heavy lossmaking projects, if no mitigation measures were taken.

These are our TOP 10 Project Risks:

1. Unclear scope of works.
2. Miscalculation and cost overrun.
3. Design problems & defective works.
4. Extension of time & delay LD's / liability, costs of prolongation and inefficiencies due to disturbances and variations.
5. Deficiencies in commercial contract implementation (weak contract management, lack of notifications, and lack of collecting evidence).
6. Lack of experiences and resources (technical and staffing).
7. Contractual ambiguities (gaps, different interpretation of clauses, new clauses).
8. Difficulties in enforcing claims (absence of a neutral court, long and costly proceedings).
9. Relying on co-operation with weak third parties (e.g., planner, sub-contractor, or consortium partner).
10. Compliance, unknown markets, customers & contractors.

We will continue this feature on a regular basis.

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