



Bharat Heavy Electricals Limited.

Mining & Metallurgical Industries Group, Industry Sector,
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Tel.No. 4367710, 436-6411 Extn.261;

Fax. No. 011-4369423.

Email :biqbal@bhelindustry.com

Buland Iqbal

Dy.General Manager (M&MI)

ID:M&MI:BHUSHAN

Dt. 31/07/02

To,
M/s Bhushan Ltd.
F. Block ,1st Floor
International Trade Tower
Nehru Place
New Delhi

Dear Sir

**Subject : 1X60 MW STG SET ,1X165 TPH AFBC ,3X52.5 TPH HRSG ,
1x100 TPH BFG Boiler**

With reference to our techno-commercial offer no.ID:M&MI:BHUSHAN dated 25/7/2002 ,
for the above job , we are pleased to furnish our prices as follows .

Sl. No.	Description	Price Rs. Lakhs
1.	1x60 MW STG set	
1.1	Price for Supply of 1x60 MW STG set Supply price on ex works /sub suppliers works /port of entry basis , for design ,Engineering ,manufacture ,assembly ,testing at manufacturer's works , of 1x60 MW STG set , for the scope of supply terminal points and exclusions as per section 7&8 and terms & condition as per our Techno-commercial offer dated 25/7/2002. This price incudes CIF content of Rs. 428.1 Lakhs .	3420.00 (Rs. Thre four two zero point zero zero Lakhs)
1.2	Price for Erection &Commissioning : Price for Erection &Commissioning of 1x60 MW STG set for the scope of work and terms and conditions as per our Techno-commercial offer dated 25/7/2002.	185.00 (Rs. one eight five point zero zero Lakhs)

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2	<p><u>Price for Supply of 1X165 TPH AFBC Boiler</u></p> <p>Supply price on ex works /sub suppliers works /port of entry basis, for design ,Engineering ,manufacture, fabrication ,assembly ,testing at manufacturer's works , of 1x165 TPH AFBC ,Boiler , for the scope of supply terminal points and exclusions as per section 4 and terms & condition as per our Techno-commercial offer dated 25/7/2002.</p> <p>This price includes CIF content of Rs. 130.00 Lakhs .</p>	<p>1830.00</p> <p>(Rs. one eight three zero point zero zero Lakhs)</p>
2.1	<p><u>Price for Erection &Commissioning :</u></p> <p>Price for Erection &Commissioning of 1x165 TPH AFBC Boiler set for the scope of work and terms and conditions as per our Techno-commercial offer dated 25/7/2002.</p>	<p>320.00</p> <p>(Rs. Three two zero point zero zero Lakhs)</p>
3	<p><u>Price for supply of 3x52.5 TPH Heat recovery steam generator</u></p> <p>Supply price on ex works /sub suppliers works /port of entry basis , for design ,Engineering ,manufacture, fabrication ,assembly ,testing at manufacturer's works , of 3x52.5 TPH HRSG Boiler , for the scope of supply terminal points and exclusions as per section 5 , and terms & condition as per our Techno-commercial offer dated 25/7/2002 .</p> <p>This price includes CIF content of Rs. 232.00 Lakhs .</p>	<p>3047.00</p> <p>(Rs. Three zero four seven pont zero zero Lakhs)</p>
3.1	<p><u>Price for Erection &Commissioning :</u></p> <p>Price for Erection &Commissioning of 3x52.5 TPH HRSG for the scope of work and terms and conditions as per our Techno-commercial offer dated 25/7/2002.</p>	<p>446.00</p> <p>(Rs. four four six point zero zero Lakhs)</p>

4	<p><u>Price for supply of 1X100 TPH BFG Boiler</u></p> <p>Supply price on ex works /sub suppliers works /port of entry basis , for design ,Engineering ,manufacture, fabrication ,assembly ,testing at manufacturer's works , of 1x100 TPH BFG Boiler , for the scope of supply terminal points and exclusions as per section 6 & 8 and terms and condition as per our Techno-commercial offer .</p> <p>This price incudes CIF content of Rs. 141.8 Lakhs .</p>	<p>1462.00</p> <p>(Rs. one four six two point zero zero Lakhs)</p>
4.1	<p><u>Price for Erection &Commissioning :</u></p> <p>Price for Erection &Commissioning of 1x100 TPH BFG Boiler for the scope of work and terms and conditions as per our Techno-commercial offer dated 25/7/2002.</p>	<p>180.00</p> <p>(Rs. one eight zero point zero zero Lakhs)</p>
5 .	<u>Important notes</u>	
5.1	O&M SPARES AND Mandatory spares are excluded from the above prices .	
5.2	Prices are firm , but for C.D variation and Foreign exchange rate variation ,which is payable extra as per formula enclosed as Annexure 1 for STG set and Annexure 2 for Bollers	
5.3	Above, prices are exclusive of all taxes and duties, freight and insurance and, Erection insurance , and works contract tax .	
5.4	E.D. :- Prevailing rate of E.D @16% - Payable extra at actuals as applicable at the time of execution of the order .	
5.5	CST :- revailing rate of CST @4% -Payable extra at actuals as applicable at the time of execution of the order .	
5.6	C.D - considered -project import 30.8 %	
5.7	Base date for Foreign exchange rate 10/7/2002	

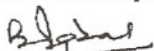
5.8	A copy of the EPCG licence ,if available may be provided to enable us examine the implications of the same	
5.9	Major terms and conditions , which could not be furnished along with our technical offer 25/7/2002 , are being enclosed with these prices .	

Prices for the balance scope related to piping, valves etc as defined in the Technical offer shall be submitted separately after getting plant layout drawings from Bhushan .

We trust you would find our offer meeting your requirement, and looking forward for our association for execution of this job.

Thanking you ,

Your's Sincerely ,



Buland Iqbal
DGM Comml. (M&MI)

ANNEXURE – 1

PRICE VARIATION FORMULA FOR VARIATION IN FOREIGN EXCHANG RATES AND CUSTOMS DUTY RATES

$$P = P1 \left(\frac{\text{Euro1}}{\text{Euro0}} \right) \times \left(\frac{100+C1}{100} \right) - P1 \left(\frac{100+C0}{100} \right)$$

P = Variation in price on account of variation in foreign exchange rates and customs duty rates.

P1 = CIF content of the sale price

Euro0 = Euro / Re. Exchange Rate expressed as Rs. Per Euro prevailing on Base Date as per market rate published by SBI.

Euro 1 = Euro / Re. Exchange rate expressed as Rs. Per Euro prevailing on the day after sixteen months from the date of order as per market rate published by SBI.

C0 = Percentage Import duty rate considered on Base Date.

C1 = Percentage customs duty rate prevailing on the day after twelve months from the date of order.

1. Base Date : 10/07/2002

Exchange rate shall be TT selling rate of SBI .

2. Import duty : Project Import(30.8%)

CIF content for STG set = Rs. 428 Lakhs

2)

**FORMULA FOR CALCULATION OF VARIATION ON ACCOUNT OF
FOREIGN EXCHANGE AND CUSTOM DUTY.**

1. Foreign exchange & Custom duty variation :

$$P_v = P \left[\left\{ \frac{100+C_1}{100} \right\} \left\{ 0.70 \frac{EU_1}{EU_0} + 0.30 \frac{USS_1}{USS_0} \right\} - \left\{ \frac{100+C_0}{100} \right\} \right]$$

Where :

- P_v = Variation in price on account of variation in foreign exchange & CD rates.
 P = Base CIF content is:-
 AFBC Boiler - Rs 130 lakhs
 WHRB - Rs 232 lakhs
 BF Gas fired blr Rs 142 lakhs
 EU = Equivalent Rs. For One Euro
 USS = Equivalent Rs. For One US Dollar
 C = Custom duty rate expressed in %age

Subscript :

- '0' refers to the Base Exchange Rates prevailing on 10/7/02
 Base Custom Duty considered is 30.80%

Subscript '1' corresponds to the periods as given below :

- At the expiry of 6 months from the Effective Date of Contract for 50% of the CIF content.
- At the expiry of 9 months from the Effective Date of Contract for balance 50% CIF content.

Note : All exchange rates shall be the market rates (TT selling) as furnished by SBI New Delhi.

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Power

The Chairman
M/s BHUSHAN Limited
F – Block, 1st Floor
International Trade Tower
Nehru Place
New Delhi – 110 019

Sub. : 40000 kW Turbo Generator and auxiliaries

Our Ref
EI N CO 02 002

Date
09.02.2002

Dear Sir,

With reference to the discussions we had with you at your office in New Delhi on 14th January, 2002 and subsequent visit of Shri Pattajoshi to our factory in Baroda on 6th February, 2002, we are pleased to submit herewith our techno-commercial proposal for your kind consideration.

We would like to comment as under:

1. The STG set offered is a 40MW continuous rating with 48 tph x 2 nos = 96 tph steam being delivered from 2 nos. 52.6 tph WHRB and the balance from the AFBC boiler. Total steam requirement being 152.4 tph. The feed water temperature for WHRB will be at 140°C and for AFBC will be 180°C.
2. The generator is designed for 20MW of induction furnace load. The induction furnaces generating harmonics as per 12 pulse as per IEEE.
3. The offered steam turbine generator is suitable to operate on island mode to take the impact loads of 2.5MW. The STG set will be designed to take an impact loading of 2.5MW when loaded till 37.5MW.

ALSTOM Power India Limited

Maneja

Vadodara 390 013

Gujarat (India)

Phone : (91)-(0265) 646681 to 646690

Fax : (91)-(0265) 640713, 656493

Regd. Office :

ALSTOM Power India Limited

The International , V Floor,

16, Marine Lines Cross Road No. 1,

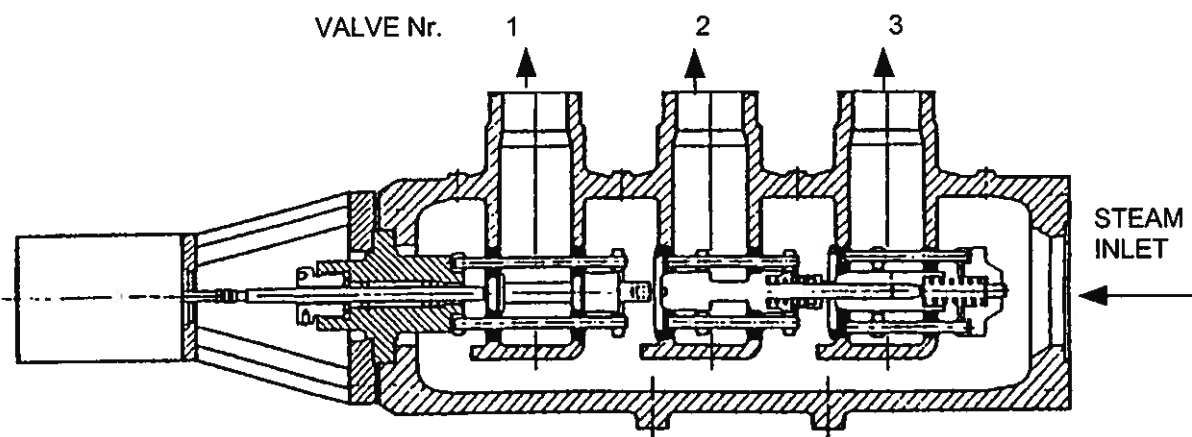
Off. Maharshi Karve Road,

Churchgate, Mumbai - 400 020. (India)

The control system is designed as under:

- The frequency controller and the speed controller are superimposed to achieve an integral characteristic. Due to the integral action of the controller the frequency setpoint can always be exactly maintained in such a manner that the remnant control difference $X_d = 0$.
- The difference in the X_d serves to determine both the direction of speed change and to determine the velocity of change of the speed setpoint. The remnant control difference is set at $\pm 2\%$.
- As regards load throw off, for limiting the accelerations, an acceleration limiter with adjustable time behavior is provided which depending on the rate of speed rise, will assist the speed controller with variable with variable amplification in closing the control valves.
- In case of a total load shedding, the speed is kept well below the trip speed of 110%.
- To improve on the response time, the control valves are designed as under to minimize the control valve response time. The actuator as you will see is only one, which actuates 3 nozzle group control double seated valves. Hence removing three independent control valves and hence the hydraulic interface.
- The steam is admitted through 3 control valves accommodated in a tubular casing. The valve casing is welded to the bottom part of the turbine casing.
- Reliable flow control is ensured by the consecutive compound control valves.
- The control valves are designed as double-seat slide valves with thermo-elastic valve cage and are accommodated in a common valve block.

- The assembly consists of extremely few and well protected moving parts. One single steam passage only must be sealed with a packing box.
- When loaded, the first valve is actuated by the driving rod. When this valve is fully open, the clearance to the next valve is bridged over and the second valve starts to open.



- The valve block housing with control valves is fitted with the hydraulic actuator on one end and with the emergency trip valve on the other end. Valve actuators are installed to adjust the valve opening to the necessary steam flow. The steam quantity corresponds to the hydraulic signal, which is determined by output, steam pressure or speed. The valve actuator consists basically of three main components.
 - Servo-motor
with a piston forced by a spring to close on one side and hydraulic oil thrust on the other side to open the valves.
 - Oil relay
with relay piston, impulse spring, relay sleeve and rigid relay sleeve feed-back corresponding to piston rod stroke;
 - Quick closing device
 - for accelerating the closing of the control valves with sudden partial or full load throw-off.

- The nozzle segments can be adapted to the requirements over a wide range so that an uninterrupted admission arc exists for all loads.
 - The control stage nozzle vanes are made from drawn profile material and fitted into a double shroud ring. The cut outs in the shroud rings for mounting the vane profiles are made by wire erosion.
4. We have delivered similar requirement turbine to M/s Jawahar Sugars in Maharashtra for 12 MW island mode application, in which there is a impact loading of 2 nos. 1.5 MW motors. Here the Turbo Generator set is working satisfactorily for the last 2 years.

We sincerely trust that we have been able to explain the system to your satisfaction.

In the event you require any technical support from us regarding the power plant please do not hesitate to contact us. We would be delighted to be of assistance to you.

We sincerely trust that you will find our offer in line with your requirements. In the event you require any further information, please feel free to contact us.

Thanking you and assuring you of our best attention at all times.

Yours faithfully
For **Alstom Power India Limited**



Sanjay Agarwal
Industrial Turbine Segment

Ref: Our Offer dated 09.02.2002

Schedule of Prices

The prices have to be read in conjunction with the terms and conditions enclosed. Our price in accordance with the scope of work and services given in our offer is:

Price - Ex- works supply with supervision of erection and commissioning.

INR 16,00,00,000/-(Indian Rupees Sixteen Crores only)

Note:

- 1) The above prices have to be read in conjunction with our commercial conditions and technical offer.

Yours faithfully,
for Alstom Power India Limited



Sanjay Agarwal
Industrial Turbine Segment

Introduction

This Term Sheet provides the framework under which the Owner and the Contractor shall enter into a formal Contract. The terms outlined herein will be superseded in their entirety by a formally executed Contract. Such Contract will be executed as a single contract as per following.

On-shore Supply Contract on Ex-works basis directly between Owner and Alstom Power Ltd., in Indian Rupees consisting of all local supplies and supervision of erection and commissioning.

Obligations Of The Contractor

The Contractor will be responsible, for designing, procuring, manufacturing, and supervising erection and commissioning at Site, all necessary material and equipment as described in the Technical Scope Document to be attached to the Contract (collectively, the "Work").

Enclosed Technical offer describes the scope of work and terminal points of such supply. The Owner shall provide all labour, skilled and unskilled and all tools and equipment required for performing the Work at site. The Contractor however, will furnish the required supervision of the Work.

The Technical Document will be comprised of the Contractor's specification for the Plant submitted to the Owner as modified in agreement with the Owner. Contractor shall give Owner notice of any intended deviation from the Technical Document and will furnish reasonable explanation of such deviation. The Owner will accept all reasonable deviations proposed by the Contractor so long as they do not conflict with Good Engineering Practice, change the Guaranteed Performance, or adversely affect the reliability of the Plant.

The Contractor will design, engineer, schedule and construct the Plant to meet applicable laws, rules, and regulations.

In the event of any change in laws, rules or regulations (New State Requirements) after the date of the tender by the Contractor to the Owner, or any divergence from such environmental operating requirements of the licenses and permits which affect Contractor's obligations there shall be a change in the Contract Price and other contract terms affected thereby as agreed with the Owner.

The owner will provide with all necessary documentation required for us to avail of the benefits on taxes and duties within 6 months from the date of the LOI.

Obligations Of The Owner

Access to Site.

The Owner will furnish the Contractor in a timely and continuous manner unrestricted access to the Site (i.e. rights of way or easements) and will indemnify and hold harmless the Contractor from any liability to third parties with respect thereto.

Approvals.

The Owner shall perform expeditious review and, when appropriate, approve of all drawings, specifications, proposals and requests made by the Contractor which are to be submitted for approval of the Owner in accordance with the Contract.

Site Office

The Owner shall provide sufficient open, levelled and graded land free from all encumbrances for site office and pre-fabrication work near the plant area.

Storage Area

The Owner shall provide sufficient levelled land for storage area near the power plant area

Approach roads

The Owner shall provide adequate access/ approach roads upto place of storage and erection for free movement of equipment and suitable for transportation of heavy equipment/ materials.

Construction Power and Water

The Owner shall provide uninterrupted supply of service water, potable water and electricity at convenient points for construction purpose at Plant area free of cost.

Workshop, tools, tackles

The Owner shall give permission to use Owner's workshop, testing facilities, existing tools and tackles as available at site

Utilities

The Owner shall provide continuous availability of start-up power and all utilities as required in sufficient quantities during testing, start-up, commissioning, trial run and performance testing.

Statutory Clearances

The Owner shall be responsible for obtaining all Statutory clearances. (including from IBR, electrical inspector related to equipment/ work under scope).

Medical Facilities

The Owner shall provide medical facilities at site for Contractor's/ Sub-contractor's personnel at normal charges as available at site

P&T services

The Owner shall make available P&T, telex and telefax services as available with the Owner on free of cost basis.

Accommodation

The Owner shall provide accommodation for senior supervisors and expatriate supervisors near site.

Unless otherwise stated, all above obligations of the Owner shall be provided in a timely manner, free of charge to the Contractor.

Manpower

The Owner shall provide all labour, skilled and unskilled and all tools and equipment required for performing the Work at site.

Payment Terms

The terms of payment shall be as mentioned in your tender specification, subject to our comments.

Terms of payment - Supply

20% advance payment. We shall submit advance Bank Guarantee of equal value which will be on reducing balance basis. This BG will be valid till completion of supplies.

10% payment against submission of drawings – General arrangement, P&IDs, layout and STG foundation data.

10% payment on proof of ordering major bought-out items like Gearbox, turbine rotor, Generator.

60% of the Contract price including 100% taxes and duties through confirmed, irrevocable and divisible letter of credit payable at sight, part shipments allowed, from a Nationalised Bank as mutually agreed upon. All banking charges including cost of opening L/C shall be borne by the Owner. The project schedules agreed upon are subject to the L.C. being opened as per the above schedule. Any extension in this shall result in a consequential extension of the deliveries.

For payments against prorata despatch, the L/C shall be payable on presentation of Commercial Invoice and Copy of Lorry receipt.

Payments for imported equipment/components:

For imported equipment/components, we will be ordering and opening the L/C for the same directly. The final payment payable on despatch from overseas supplier will be reimbursed by you to us on presentation of bill of lading and commercial invoice.

Price Conditions

For On - shore Portion:

The quoted price for the on-shore portion is based on the following:

a) Excise duty

The quoted price for supplies is exclusive of excise duty as applicable, on items despatched to site by us/ our sub- contractors however, the same shall be paid as per rates prevailing at the time of despatch. However, we understand, that you will be able to avail MODVAT benefit for the same

b) Sales Tax

The quoted price for the supplies is exclusive of Sales tax as applicable on items despatched to site by us/ our sub- contractors. However, the same shall be paid at actual as per rates prevailing at the time of despatch.

Estimated amount of excise duty and concessional sales tax @4% against Form 'C' are indicated in the price schedule. Owner shall provide necessary Form C issued in favour of us/ our sub-contractor to avail the above concessional rates.

c) Customs duty

The quoted price for supplies is **exclusive of any import duty** for imported raw materials, components and subsystems as applicable.

Necessary assistance/documents including Project Authority Certificate as may be required by the authorities shall be furnished by the Owner to enable us/ our sub-contractor to avail the above rates/exemption. Any increase / changes in the said rates/laws will be to the Owner's account. All import duties on imported items/sub-systems/components will be extra to your account.

d) Exchange Rate

For the imported raw materials/ components/ assemblies required for the project, market exchange rate of 42.7Rs/Euro as on 9th February 2002 has been considered for conversion of foreign currency to Indian Rupees. Any variation in price due to variation in above rate at the time of execution will be to Owner's account. The total imports required for this project will not be more than 1.8Meuro FOB. However, the exact figures will be informed to you on finalization of our orders on overseas suppliers.

e) Other taxes, duties and levies :

Our offer does not include any other Central/ State taxes/duties/ levies including works contract tax, Octroi, municipal tax etc. either on the onshore-supply portion or on the on-shore service portion and the same shall be paid

extra by the Owner as per the rates prevailing at the time of despatch/ execution of work, wherever applicable.

f) Statutory variations/New taxes/ duties/ levies

Any variation in prices due to statutory variation/ incidence of any new taxes/ duties/ levies/ due to change in law shall be to the account of the Owner.

Two Years Normal Operation & Maintenance Spares

We shall submit list of spares, to be procured by you, after receipt of advance which you will have to procure within 6 months from the date of issue of Purchase Order for the STG set.

Effective Date Of Contract

The Contract will come into force at the Effective Date of Contract. The effective date of Contract shall be the date of acceptance by the Contractor of technically and commercially clear LOI subject to receipt of advance payment by the Contractor within 15 days of date of acceptance of the LOI and receipt of L/C by the Contractor in an acceptable form within 45 days from the date of acceptance of the LOI.

In case the contract has not become effective within 3 months after the date of acceptance of LOI by the Contractor, the Contractor shall have the right to suspend the performance of the work or terminate the contract. The Owner shall have no right to raise any claims against Alstom Power as a consequence of such termination. In case of suspension of work, the time till completion shall be extended correspondingly. Further the Contractor shall be entitled to compensation for all extra cost arising as a consequence of the suspension.

Completion Schedule

The TG set shall be delivered exworks as follows:

15 months delivered at site from the effective date of contract.

We expect the last major despatch to be completed in 14½ months ex our/our sub-supplier works.

In the event the Purchaser is not ready for commissioning for reasons not attributable to the Contractor, a grace period of 3 months shall be considered beyond date of "last major despatch". Beyond this, the set will be deemed to be commissioned.

The periods stipulated for the deliveries and services to be rendered will be reasonably extended in case of industrial disputes and the occurrence of events beyond Contractor's control (force majeure) irrespective of whether they affect the Contractor or his subcontractors insofar as these events prevent the Contractor from complying with the contractual deliveries.

Timely supply of deliveries / commissioning and performances is conditioned upon timely receipt of all documents to be furnished by the Purchaser, necessary licenses and releases timely clarification and approval of plans and observance of the terms of payment agreed upon and all other obligations.

If these conditions are not timely fulfilled, the period for supply shall be appropriately extended. Resulting extra cost shall be borne by the Purchaser.

Force Majeure

The right of the Contractor to proceed with the work shall not be terminated because of any delay in the completion of work due to unforeseen causes beyond control and without fault and negligence of the Contractor or their sub-Contractors including (but not restricted to) act of God or Public enemy, action of Government in its sovereign capacity, floods, epidemics quarantine, strike, lockouts, fires, explosions, accidents, stoppages in the supply of power, civil commotion riots, wars or warlike acts, insurrections, mutiny, changes in statutory regulations, governmental measures or decrees, embargoes, natural catastrophes, fire, rejection of a major workpiece, etc. In the even of any of the aforesaid contingencies, unusual or extra ordinarily prolonged, the Purchaser will be promptly kept informed by the Contractor by fax/telegram followed by confirmation in writing with documentary proof within 15 days of the commencement and completion of Force Majeure circumstances. Force majeure clause shall also apply to Seller's sub-Contractors.

The extension of delivery period / completion time shall be in keeping with the duration of the force majeure event and the consequent recovery period.

Warranty

- a) The Contractor undertakes to remedy any defect in supplied equipment resulting from faulty design, materials or workmanship occurred and brought to the notice of the Contractor by the Purchaser during a period of 12 months from the date of commissioning (i.e. ready for commissioning), but not later than 18 months from the despatch/ notification of readiness for despatch of last major item to the site whichever occurs earlier. Any defects found either in materials or workmanship during the above period under normal use shall be made good by the Contractor at his own expense within the reasonable time period agreed with the Engineer-in-charge / Purchaser.
- b) The warranty obligation does not refer to natural wear and tear nor to damage caused after the transfer of risk due to improper or unsuitable handling, faulty maintenance and operation, excessive stressing, unsuitable operating

material, faulty construction work, unsuitable foundation soil, and chemical, electrochemical or electrical influences of a nature not provided for according to the contract. On improper alterations or repairs carried out by the Purchaser or third parties without Contractor's consent, Contractor's warranty obligations and his liability for consequences caused thereby are rendered void.

- c) The terms of the main order apply also to repairs and the delivery of replacements. The warranty period for replacements supplied is 6 months after delivery and runs until the termination of the original warranty term, but ends, however, at the latest 12 months after delivery or notification of readiness for dispatch of the main supply.
- d) Further claims against the Contractor by the Purchaser are excluded, in particular claims of compensation for damage not caused to the supplied equipment itself. Liability of the Contractor shall be limited to the rectification /replacement of the defective part.

Performance Trial and Taking Over

Contractor will conduct a performance test at guaranteed point within 15 days of successful commissioning of the unit. Performance test readings shall be taken during a part of the 72 hour trial operation. The duration of the performance test during the trial period shall be sufficient to obtain the requisite number of readings. The tentative duration considered suitable is 4 hours.

In case the machine is not able to achieve full load due to reasons not attributable to the Contractor, then the test would be carried out at the maximum available load.

Any stoppages during this period shall not be counted as a break in the 72 hours trial run to demonstrate the performance. Cumulative 72 hours run shall be counted disregarding the stoppages due to sources outside the TG proper.

The turbine shall be taken over by the Purchaser upon completion of the PG test and Owner shall issue a taking over certificate to the Contractor. Such a certificate shall not unreasonably be withheld nor will the Purchaser delay the issuance thereof on account of minor omissions or defects, which do not affect the commercial use of the equipment.

In case the PG test is not carried out within 15 days after the first rolling due to no fault of the Contractor, the unit shall be deemed to be taken over by the Purchaser and the PG test would be deemed to have been completed.

Successful commissioning refers to taking the TG set on full load. If however, the load is not available due to constraints on part of the Purchaser, loading the TG set to the available load would be considered as successful commissioning.

Liquidated Damages For Delays/ Shortfall In Performance

a) Delay in delivery

In case of delay in ex-works delivery for reasons solely attributable to the Contractor, the Contractor will pay liquidated damages @ 0.5 % of contract value per complete week of delay, however not exceeding 5% of the total contract value. However Liquidated Damages will not be applicable in case inputs required from the Purchaser are not available/ delayed as per the dates informed by the Contractor for timely erection and commissioning. Liquidated Damages will also not be applicable if the Purchaser fails to perform his obligations as mentioned in this offer.

b) Shortfall in performance

0.5% of contract value for full 1% decrease in gross output.

unless the Contractor is able to bring the machine set within the contractual conditions by rectification work, subject to a maximum of 5% of the contract value. The Contractor shall be given adequate opportunity and time as required by the Contractor to carry out necessary modification to upgrade the equipment up to the guaranteed parameters within the limit of liquidated damages.

The sum of the above-liquidated damages (for shortfall in performance) including liquidated damages for delayed Commissioning is limited to a maximum of 7.5 % of the contract price. The Purchaser shall have no further claims ref. to the a.m. figures

Applicable Laws And Regulations / Dispute Resolution

1. Applicable Laws and Jurisdiction

The contract shall, in all respects, be construed and operate in conformity with the India law and be a subject to the jurisdiction of Mumbai.

2. Arbitration

If at any time there should be any question, dispute or difference between the parties in respect of any matter arising out of, or in relation to this Agreement, either party may give to the other party notice in writing of this existence of such question, dispute or difference and the same shall be referred to the arbitration of a single arbitrator when the parties may agree upon, other wise to two arbitrators, one to be nominated by each party. The Arbitrator(s) shall, before proceeding with the reference, nominate an Umpire to act in case of disagreement. The award of the Arbitrator(s) shall be final and binding on the parties and be accepted by them. This reference to the Arbitrator(s) shall be deemed to be a reference, under the provisions of the Indian Arbitration Act, 1940 and the rules made thereunder any statutory modifications or re-

enactments thereof that may be made from time to time and actually in force at the time of the reference. The cost of Arbitration shall be borne by the parties as may be decided upon by the Arbitrator(s) or the Umpire as the case may be.

Any dispute whatsoever, touching the tender/contract, shall be referred to arbitrator residing in Baroda, holding a responsible position in a firm or company, which is a member of the Baroda Chamber of Commerce and Industry.

Termination

a) Termination due to Purchaser's fault.

If the Purchaser fails to fulfil his obligations like release of payments, clearing Hold Points for Inspection on time, approval of documents submitted for approval on time, etc., and such failure continues for 30 days after the due date, the Contractor shall have the right to either suspend the works until the Contractor receives payments of all amounts due or terminate the contract by giving prior written notice. Further, in case of suspension of work, Purchaser shall be responsible for reimbursement of all cost incurred by Contractor as a result of such suspension and an automatic time extension to the extent of such causes' impact shall be granted to the Contractor.

b) Termination upon Contractor's fault :

- i) In the event the Contractor is adjudged a bankrupt or insolvent, or if Contractor makes a general assignment for the benefits of its creditors, or if a trustee or receiver is appointed for the Contractor or any of its property,
- ii) If Contractor commits a material breach of any of the terms of this agreement.

The Purchaser has the right to terminate the contract in above cases if :

- i) If the Contractor fails to remedy, or commenced to remedy, any such failure or breach, stating reasons for such failure or breach and
- ii) If such a failure or breach cannot be remedied within 90 days, thereafter fails to continue diligently to pursue such remedy. Delay in delivery shall, however, not qualify as a termination

c) Payment upon termination due to Purchaser's fault :

If this agreement is terminated, pursuant to clause, Contractor shall be eligible to receive payment for all supplies delivered through the date of termination plus any other expenses which Contractor may have incurred / would be liable to incur for performing the works under the contract.

d) Incidental Expenses :

In case of termination of this agreement, the Purchaser shall also release all bonds and guarantees at its disposal except in cases where the total amount of payment made to the Contractor exceeds the final amount due to him. In such a case the Contractor shall refund the excess amount within sixty days after termination and Purchaser shall thereafter release all guarantees. In such cases the right of the

Purchaser to encash the bank guarantee shall be limited to the excess amount payable by the Contractor, if any.