

For Steam Generation Plant at Talcher, Odisha (India)

SR. NO	SECTION NO.	CLAUSE NO	PAGE NO.	SUBJECT	BIDDER'S QUERY	OWNER'S reply
1	IV	21	163	Time - The Essence of the Contract	Description of clause to be as per GCC : TIME - PROJECT SCHEDULE. To be added : Owner shall fulfil his contractual obligations within agreed timelines and any extension shall have price implications in case the delay is not attributable to Contractor.	No change, shall be as per NIT. Further, please refer Clause 33.0 of GCC in this regard.
2	IV V	29.3 1.2.10.1.3	169 239	After the issue of the Preliminary Acceptance Certificate, in the event of an emergency where, in the judgement of the Owner, delay would cause serious loss or damage, repairs or adjustments may be made by the Owner or a third party chosen by the Owner without advance notice to the Contractor and the documented and direct cost of such work shall be paid by the Contractor but only to the extent that the repair or adjustment was due a defect attributable to Contractor. If CONTRACTOR fails to take proper corrective action to replace/ repair defective Equipment satisfactorily within a reasonable period, OWNER shall be free to take such corrective action as may be deemed necessary at Contractor's risk and cost, after giving notice to Contractor.	Any rectification, repair or replacement during such Warranty Guarantee / Defects Liability Period shall be carried out by the Contractor within the mutually agreed time schedule. In spite of all practicable effort on the part of the Contractor, if any items or portion of Machinery and Equipment are found defective, the Contractor shall replace such defective portion within a reasonable period of time as mutually discussed and agreed between the parties. In the event of any modifications, repairs or alterations including mishandling, undertaken by the Owner or any third party without the consent of the Contractor, Contractor shall not accept any liability for defects and shall be absolved of all related obligations and liabilities. Contractor's obligation towards Performance Warranty shall be valid and applicable only if the Machinery and Equipment is operated and maintained in an adequate manner by sufficient, competent, qualified and experienced staff of the Owner and the Machinery and Equipment is used for Intended Purpose.	No change. Shall be as per NIT
3	IV	31.2	173	For every 0.50% increase in Works cost above the guaranteed works cost or part thereof, Contractor will pay Mutually Agreed Damages equal to 1.0% of the Total Contract Price (excluding taxes).	Maximum damages for increase in works cost shall be 5% (five percent) of the total Contract Price.	No change. Shall be as per NIT
4	-	-	-	To be added -Overall damages for delay in Completion and increase in Works cost	Overall damages for delay in Completion and increase in Works cost shall be limited to maximum 7.5% (seven and half percent)of total Contract Price.	Bidder's request is not acceptable.
5	IV	35	180	Force Majeure	CONDITIONS FOR FORCE MAJEURE: In the event of either party being rendered unable by Force Majeure to perform any obligations required to be performed by them under the Contract the relative obligation of the party affected by such Force Majeure shall upon notification to the other party be suspended for the period during which Force Majeure conditions lasts. The cost and loss sustained by the either party shall be borne by the respective parties. The term "Force Majeure" as employed herein shall mean acts of God, earthquake, war (declared or undeclared), revolts, riots, fires, floods, rebellions, explosions, hurricane, sabotage, civil commotions, outbreak of Coronavirus labelled as COVID-19 and acts and regulations of respective Government of the two parties, namely the Owner and the Contractor. Upon the occurrence of such cause(s) and upon its termination, the party alleging that it has been rendered unable as aforesaid thereby, shall notify the other party in writing immediately but not later than 120 (one hundred and twenty) hours 15 days of the alleged beginning and ending thereof giving full particulars and satisfactory evidence in support of its claim. Time for performance of the relative obligation suspended by the Force Majeure shall then stand extended by the period for which such conditions lasts. If deliveries of bought out items and/or works to be executed by the Contractor are suspended by Force Majeure conditions lasting for more than 2 (two) months, the Owner and the Contractor shall have the option to (i) terminate the Contract, in which case clause of termination for Owner's convenience shall be applicable for payments and other settlements or (ii) re-negotiate the contract provisions.	Outbreak of Covid-19 is already considered under "acts and regulations of respective government".
6	I IV	45 40	42 183	Arbitration	The Dispute shall be referred for determination by three arbitrators, one to be chosen by each party and third arbitrator to be appointed by such appointed arbitrator before proceedings on the reference in accordance with the provision of the Indian Arbitration and Conciliation Act, 1996 or any other amendment or modification thereof for the time being in force. The venue of arbitration shall be Hyderabad, India.	No change. Shall be as per NIT

7	IV	47.2	186	If such suspension of work by Owner or is likely to delay the progress of WORK or the carrying out of work under Contract resulting in additional expenses or increased liability to Contractor, the Owner shall pay to the Contractor all reasonable expenses, mutually agreed between OWNER and Contractor, arising from suspension of the work by an order in writing of the Owner provided that such suspensions of work is more than a cumulative period of Sixty days (60) days and provided that such suspension is not due to some fault on the part of the Contractor or a sub-Contractor.	If such suspension of work by Owner or is likely to delay the progress of WORK or the carrying out of work under Contract resulting in additional expenses or increased liability to Contractor, the Owner shall pay to the Contractor all reasonable expenses, mutually agreed between OWNER and Contractor, arising from suspension of the work by an order in writing of the Owner provided that such suspensions of work is more than a cumulative period of Sixty days (60) days and provided that such suspension is not due to some fault on the part of the Contractor or a sub-Contractor. If the Customer fails to certify a payment or pay the Contractor the amount due and fails to explain why Contractor is not entitled to such amount within 30 (thirty) days after expiry of the due date of such payment, the Contractor may suspend the supply after giving 30 (thirty) days' prior notice to the Customer. Such action shall not prejudice the Contractor's entitlements to payments otherwise due and to terminate the Contract as per the provisions hereof.	No change, shall be as per NIT. Further please refer clause 47.3. of GCC
8	V	1.2.8.10.4	234	Property in Equipment : In case of all equipment / materials (both imported and indigenous), the title of Ownership shall pass on to Owner on Preliminary Acceptance of Plant.	Property in Equipment : In case of all equipment / materials (both imported and indigenous), the title of Ownership shall pass on to Owner on <u>Commissioning of the Plant.</u>	Amendment Shall follow shortly
9	V	1.2.10.1.5	240	EQUIPMENT or part thereof so repaired or replaced shall have further warranty for a period of 12 months from the date of its acceptance after repair / replacement and the Performance Bank Guarantee shall be suitably extended for the same. The value of the Performance Bank Guarantee during the extended warranty period shall be 10 (Ten) percent of the cost of such repaired / replaced equipment or its parts for which documentary evidence to be submitted. However, extended Defect Liability Period shall have an upper limit of 24 months for extended Defect Liability Period, starting from the Preliminary Acceptance.	<u>Extended defect liability period for repaired / replaced parts shall have an upper limit of 24 months from the scheduled date COMMISSIONING</u>	Amendment Shall follow shortly
10	IV	7	16	Patent Infringement	Owner to ensure that no modification of the Plant should be carried out without the permission of the Contractor otherwise patent warranty shall cease to apply.	Patent Indemnification shall prevail in all conditions.
11	IV	7.2.5	18	Permits and Certificates	List of permits/certificates required to be obtained by Contractor is not mentioned. Owner to clarify the same.	Please refer Clause 59 of GCC & clause 1.2.12 of SCC in this regard
12	IV	16.2.8	26		It should also be mentioned in this clause that Contractor shall not be in default for delay if such delay is due to Owner.	No change, shall be as per NIT. Provisions are already mentioned in the NIT.
13	IV	32	40	Overall Ceiling of Liability	There is no cumulative ceiling on delay and shortfall in performance	No change. Shall be as per NIT. The individual ceilings on MAD and Works Cost are given under GCC clauses 31.1.3 and 31.2. However, for shortfall in performance, it will be governed by Overall Ceiling on Total Liability (which is 100% of Contract value)
14	IV	33.3	40	Suspension-	No outer limit mentioned for suspension.	Please refer clause 47.2 of GCC
15	V	1.2.7.1	7	Owner's/PMC Review	Period of 14 days for review of documents by Owner to be reduced to 7 days.	No change. Shall be as per NIT
16	V	1.2.8.7.12	11	Witness of Test	For witnessing tests by Owner, 15 days notice to be reduced to 7 days.	No change. Shall be as per NIT
17	V	1.2.8.10.4.1	14	Property in EQUIPMENT	Title/Property in goods should be passed to Owner on transportation of goods by Contractor and not on PAC but care and custody shall remain with Contractor till PAC.	No change. Shall be as per NIT

18	V	1.2.10.1.2	11	Warrantees and Guarantees	Catalyst warranty period is not mentioned.	Refer Section-VI-8.0
19	V	General	11	BOCW	Kindly Clarify BOCW cess is applicable or not	Bidder to include BOCW/any other taxes & duties in the Total LSTK/CONTRACT Price. Please refer clause 12.9 and 20.1 of SCC.
20	V	17		Liability for Defects-	DLP is 12 months from PAC (which is after PG test). There should be one more leg for starting of DLP to say 18 months from last supply. Further, there are no exceptions mentioned to warranty obligations like FM events, and operation of Plant contrary to Operation Manual of Contractor. Above modifications in contract must be asked from the Owner.	No change. Shall be as per NIT