**HINDUSTAN AERONAUTICS LIMITED**

**IMM DEPARTMENT**

**GENERAL TERMS & CONDITIONS OF CONTRACT**

(These General Terms and Conditions shall apply to the extent that they are not superseded by provisions of the Specifications of the Equipment.

Manufacturer's name and country of origin of the materials offered must be clearly specified. Complete details and illustrated literature must accompany all quotations.)

1. QUALITY & WORKMANSHIP: Generally the stores shall be of the best quality and workmanship. Contractor shall comply with the contract in all respects be to the satisfaction of HAL. Where tenders are called for in accordance with `particulars', the contractor's tenders to supply in accordance with such `particulars' shall be deemed to be an admission on his part that he has fully acquainted himself with the details thereof and no claim on his part which may arise on account of nonexamination or insufficient examination of the `particulars' will in any circumstances be considered. The contractor shall supply the stores in accordance with the `particulars' unless any deviation is authorised as an exception expressly specified in the Purchase Order. The Stores/ Goods supplied shall conform to the standards, if mentioned in the Technical Specifications, or, where no applicable standard is mentioned, to the authoritative standards appropriate to the Goods’ country of origin. Such standards shall be the latest issued by the concerned institution.

2. SHELF LIFE : Where stores offered have a limited shelf life, kindly indicate the life and confirm that such stores shall have a minimum of \_\_\_\_\_% (to be specified by the Division) of shelf life at the time of despatch. In respect of rubber items such as Seals etc. having cure date, the item should not have been manufactured earlier than 6 months of despatch

3. WARRANTY: Shall be as mentioned in ‘Tehnical Specification Cum Bid’(Minimum) from the date of acceptance of items at HAL or more as per bidders policy. Warranty is after the goods have been taken over by HAL, the contractor shall be responsible for any defects that may develop due to faulty materials, design or workmanship and shall remedy such defects at his own cost when called upon to do so by HAL who shall state in writing in what respect the portion is faulty. If it becomes necessary for the contractor to replace or renew any defective portion of the goods the contractor shall make such replacement or renewal without any extra cost to HAL. During warranty minimum uptime of 95% shall be ensured failing which warranty period shall deem to be proportionately extended. During warranty period equipment shall be replaced/ repaired free of cost including any to & fro freight/insurance involved. Supplier shall attend to warranty calls within 48 hours notice.

4. SUPPLY OF SAMPLES : Samples submitted for any reasons shall be supplied without charge and freight paid and without any obligation on the Purchaser as regards safe custody. All samples submitted must be clearly labeled with the contractor’s name and address and tender number. If the contractor submits the samples with his tender the same shall not govern the standard of supply except when it has been specifically stated in the Purchase Order that it is accepted instead of any sealed pattern. Should certified samples be lent to a contractor by HAL the contractor is responsible for the return in perfect order of all certified samples with the labels intact.

5. PACKING : The contractor will be held responsible for the stores being sufficiently and properly packed for tropical storage and for transport by rail, road, sea or air so as to ensure their being free from loss or injury on arrival at their destination. The packing and marking of packages shall be done by and at the expense of the Contractor. Each package shall contain a Packing Note quoting Purchase Order number and date showing its contents in detail. Each shall be properly marked with Purchase Order No., Consignee’s name & address, package-handling instructions etc. The package shall have adequate provision for handling during transit.

6. RECEIPT & DESPATCH : The Contractor is responsible for obtaining a clear receipt from the Transport Authorities specifying the goods dispatched. He will not book any consignment on a said to contain’ basis. If he does so, he does it on his own responsibility. HAL will take no responsibility for short deliveries or wrong supply of goods when the same are booked on `said to contain' basis. HAL shall pay for only such stores as are actually received by them in accordance with the contract.

7. FIRM PRICES : The contract prices will be firm as fixed as per contract terms till execution of contract and exclude subsequent claims or price increases of any kind.

8. DUTIES & TAXES: Tax or Duties, wherever leviable and intended to be claimed from HAL should be distinctly shown along with the prices quoted. Where this is not done, no claim for Tax/ Duty will be admitted at a later stage on any ground whatsoever.

9. DELIVERIES, CONSEQUENCES OF BREACH: The date of delivery stipulated in the Purchase Order shall be deemed to be the essence of the Contract, and delivery must be completed on or by the dates mentioned in the Purchase Order or the tender. Should the contractor fail to deliver the stores or any consignment thereof within the period prescribed for such delivery, HAL shall be entitled at their option:

a) To recover from the Contractor as per liquidated damages, and not by way of penalty, a sum of 0.5% of the price (on basic cost only excluding taxes & duties, if such details are furnished separately in the bid submitted) of any stores which the contractor has failed to deliver as aforesaid, for each week or part thereof during which the delivery or such stores may be in arrears subject to a maximum of 10% of the price of the stores in default. **OR**

b) To purchase elsewhere, without notice to the Contractor on the account and at the risk of the contractor, the stores not delivered or others of a similar description (where other exactly complying with the particulars are not available), HAL's decision in this respect will be final, OR

c) To terminate the contract

10. In the event of action being taken under para-a & b above, the Contractor shall be liable for any loss which HAL may sustain on the account but the Contractor shall not be entitled to any gain on repurchases made against default.

11. EXTENSION OF TIME : If an extension is desired by the supplier, contractor shall apply for extension of time to HAL at least 15 days prior to the date of delivery without prejudice to the rights of HAL, mentioned in Clause-9, then HAL may grant extension of time for any cause which HAL may deem proper and the decision of HAL in this respect to be final and binding and cannot be questioned in any manner whatsoever.

12. INSPECTION, CONSEQUENCES OF REJECTION : The goods on receipt in HAL will be subject to inspection and tests, if necessary and HAL inspector’s decision as regards acceptance/rejection of goods shall be final and binding on the parties. (In case of Plant & Machinery, goods shall be finally inspected & accepted only after successful commissioning) If any stores are rejected, HAL shall be at liberty to:

a) Now the contractor to re-submit stores in replacement of those rejected within a time specified by HAL, the contractor bearing the cost of freight in such replacement without being entitled to any extra payment, OR

b) Buy the quantity of stores rejected or other of a similar nature elsewhere at the risk and cost of the contractor without affecting the contractor's liability as regards the supply of any further consignments due under the contract, OR

c) Terminate the contract and recover from the contractor the loss HAL may thereby incur. The contractor shall not be entitled to any gain on the repurchase,

OR

d) Any stores rejected by HAL's Inspector must be removed by the contractor within 14 days from the date of receipt of intimation of rejection and at his own cost, failing which the contractor shall be liable to pay storage charges at 1% for each day of delay on the invoice value of the stores. If the stores are not removed within a month from the date of intimation of rejection, the stores will be liable, to be sold by HAL at the contractor’s risk and responsibility and the proceeds adjusted towards storage charges.

In case any payment is made against delivery and it is found that the supplied item is rejected during inspection/commissioning, contractor will be required to choose any one of the following options to collect the rejected item for replacement.

(a) Refund the amount paid and collects the item for replacement. (b) Submit a Bank Guarantee for the amount already paid and collect the item for replacement.

(‘c) Bring the replacement item to HAL and collect the rejected item.

13. PLANT AND MACHINERY SUPPLIES : In case of contracts for Plant and Machinery, requiring inspection and test after erection at site if the completed plant or any portion thereof before it is taken over is defective or fail to fulfill the requirements of the contract, HAL shall give the contractor notice setting from details of such defects or failures and the contractor shall forthwith make the defective plant good to make it comply with the requirements of the contract. Should he fail to do so within a reasonable time, HAL may reject and replace at the cost of the contractor the whole or any portion of the plant, as per the requirements of the contract. Such replacement shall be carried out by HAL, within a reasonable time, at reasonable price and where reasonably possible, to the same particulars under competitive conditions.

14. APPROPRIATION : Whenever under this contract any sum of money is recoverable from any payable by the contractor, HAL shall be entitled to recover such sum by appropriating in part or whole by deducting any sum then due or which at any time thereafter may become due to the contractor in this or any other contract entered by HAL as a whole its Divisions and Branch Offices etc., held by him alone or in partnership with others. Should this sum be not sufficient to cover the full amount recoverable, the contractor shall pay to HAL on demand the remaining balance due.

15. PAYMENT FOR STORES: Unless otherwise agreed to between the parties, HAL will effect payment for the delivery of the stores by Electronic Bank Transfer (ECE/RTGS) to the suppliers bank account as notified to HAL on submission of bills in triplicate. Payment for the stores on each delivery will be made to the contractor after goods are received and passed by inspection. Normally 30 days will be allowed for inspection after receipt of goods.

16. PAYMENT FOR PLANT AND MACHINERY/RETROFITMENT/RECONDITIONING: 80% of supply value plus 100% statutory levies against delivery & inspection at HAL and 20% of supply value and 100% of commissioning charges if any, after Installation & Commissioning and acceptance & handing over of machine and submission of performance bank guarantee as per HAL format for 10% of order value valid till end of warranty period, from a Bank of International Repute (For foreign bidder)/ Scheduled Bank of India.

17. TERRITORY : This contract shall be governed by and subject to and interpreted and construed in accordance with the Laws of Republic of India, as may be in force from time to time.

18. INDEMNITY: The contractor shall at all times indemnify HAL against all claims which may be made in respect of the stores for infringement of any right protected by patent, registration of design or trade mark.

19. BRIBES AND GIFTS : Any bribe, commission, gift or advantage given, promised or offered by or on behalf of the contractor or his parties, agent or servant or any one on his or their behalf to any officer, servant, representative of HAL or any person on his or their behalf in relation to the obtaining or to the execution of this or any other contract with HAL shall in addition to any criminal liability which the contractor may incur, subject the contractor to the cancellation of this and all other contracts with HAL and also to payment of any loss or damage resulting from any such cancellation under clauses-8 and 10 thereof. Any question or dispute as to the commission of any offence under the present clause shall be settled by HAL in such manner and on such evidence or information as they may think fit and sufficient and their decision shall be final and conclusive.

20. SUB-CONTRACT : Neither of the parties of this contract shall be entitled without the other party's consent to assign or transfer to a third party all or part of the benefits or obligations of this contract.

21. ARBITRATION : All disputes or differences whatsoever arising between the parties out of or relating to the construction meaning and operating or effect of this contract or the breach thereof shall be settled by arbitration in accordance with the rules of arbitration of the ICA/ICADR and the award made in pursuance thereof shall be binding on the parties.

22. WORK AND PAYMENT DURING ARBITRATION : Work under the contract shall if reasonably possible continue by mutual agreement during the arbitration proceedings and no payment due to or payable by HAL will be withheld without reasonable cause and merely on account of the pendency of such proceedings.

23. JURISDICTION: The Court at Bengaluru only shall have jurisdiction to deal with and to decide any legal matter whatsoever arising out of this contract.

24. **CONFIDENTIALITY** : The Supplier shall hold confidential technical data and information supplied by the Purchaser or on behalf of the Purchaser and shall not reproduce any such technical data or information or divulge the same to any third party without the prior written consent of the Purchaser. The Purchaser shall hold confidential technical data and information supplied by the Supplier or on behalf of the Supplier and shall not reproduce any such technical data or information or divulge the same to any third party without prior written consent of the Supplier except as far as may be necessary for either party to carry out its obligations under this Contract.

25. In the development orders, where technical inputs/assistance is provided to the vendors, the Intellectual Proprietary Rights (IPR) will rest with HAL. Vendor will not directly deal with HAL’s customer for these items.

26. **POST-WARRANTY SERVICE**: The supplier shall supply spare parts to HAL under reasonable conditions throughout the period of the usual technical lifetime, but in any case for a period of ten years after the last delivery. If the supplier discontinues the delivery of goods after expiration of the period set forth above or during that period, he shall provide HAL with the opportunity for a last order under reasonable conditions. Arrangements for after sales service and maintenance in India (authorized service centre) on site during warranty & post warranty period should be clearly indicated providing with name, address, phone, fax, contact person, infrastructure along with spare parts inventory held by your Authorized Technical Service Center. Supplier to indicate the validity period of authorization for the technical service centre.

27. **TRAINING / FACTORY ACCEPTANCE TEST:** Vendor shall impart free training (if applicable) to HAL’s Personal in the area of programming, operation, mechanical maintenance and electronic/electric maintenance at Vendor’s work and also during commissioning. Boarding, lodging & travel of HAL’s personnel shall be borne by HAL.

28. **FALL CLAUSE**: The price quoted shall be in no event exceed the lowest price at which you sell the stores or offer to sell stores of identical description to any person(s) / organization including the purchases by any department of the Govt. of India, the State Govt. or any statutory undertaking of the Govt. of India / State Govt., as the case may be during the period till the completion of the performance of the order placed and during currency of the order. If at any time during the said period, the contractor reduces the sales price, sells or offers to sell such stores to any person/organization including the purchaser or any department of Central Govt. or any Dept. of State Govt., or any statutory undertaking of the Central or State Govt., as the case may be at a price lower than the price chargeable under the contract, he shall forthwith notify such reduction/sale or offer to sale to the Hindustan Aeronautics Limited and the price payable under the contract for the stores supplied after the date of coming into force of such reduction or sale or offer to sale shall stand correspondingly reduced.

29. **EXPORT LICENSE**: Foreign Vendors making proposals should ensure availability of export license as per their Govt. regulations for export to India. Vendor shall be required to obtain and maintain all Export/Import licences and permits etc., as the case may be, required for performing supplies against this tender. Obtaining export licence shall be entire responsibility of the vendor.

30. **INVOLVEMENT OF ANY AGENTS AND MIDDLEMEN:** The seller confirms and declares to the buyer that the seller is the original manufacturer or authorized distributor / stockiest of original manufacturer or Govt. Sponsored / Designated Export Agencies (applicable in case of countries where domestic laws do not permit direct export by OEMS) of the stores referred to in this offer / contract / Purchase order and has not engaged any individual or fi rm, whether Indian or Foreign whatsoever, to intercede, facilitate or in any way to recommend to Buyer or any of its

functionaries, whether officially or unofficially, to the award of the contract / purchase order to the Seller; nor has any amount been paid, promised or intended to be paid to any such individual or firm in respect of any such intercession, facilitation or recommendation. The Seller agrees that if it is established at any time to the satisfaction of the Buyer that the present declaration is in any way incorrect or if at a later stage it is discovered by the Buyer that the Seller has engaged any such individual / firm, and paid or intended to pay any amount, gift, reward, fees, commission or consideration to such person, party,firm or institution, whether before or after the signing of this contract / purchase order, the Seller will be liable to refund that amount to the Buyer. The Seller will also be debarred from participating in any RFQ / Tender for new projects / program with Buyer for a minimum period of fi ve years. The Buyer will also have a right to consider cancellation of the Contract / Purchase order either wholly or in part, without any entitlement or compensation to the Seller who shall in such event be liable to refund all payments made by the Buyer in terms of the Contract / Purchase order along with interest at the rate of 2% per annum above LIBOR (London Inter Bank Offer Rate) (for foreign vendors) and Base Rate of SBI (State Bank of India) plus 2% (for Indian vendors). The Buyer will also have the right to recover any such amount from any contracts / Purchase order concluded earlier with Buyer.

HAL has not appointed / authorized any person / agent to deal with the vendors in respect of the said contract. In case, if someone claims and interacts with the vendors it shall be duty of the vendors to bring such instances to the notice of HAL Management.

31. **Immunity to Government of India**: It is expressly understood and agreed by and between supplier & purchaser that purchaser is entering into this contact solely on its own behalf and not on behalf any other person or entity. In particular, it is expressly understood and agreed that Government of India is not a party to this contract and has no liabilities, obligations or right hereunder. It is expressly understood and agreed that purchaser is an independent legal entity with power and authority to enter into contracts solely on its own behalf under the applicable laws of India and general principles contract law. Supplier expressly agreed acknowledges and understand that purchaser is not an agent, representative or delegate to the Government of India. It is further agreed and understood that Government of India is not and shall not be liable for any acts, omissions, commissions, breaches or other wrongs arising out of the contract. Accordingly, supplier hereby expressly waives releases and foregoes any and all actions, including counterclaims, impleader claims or counter claims against the Government of India arising out of this contract and covenants as to any manner, claim cause or action or this whatsoever arising out of or under this contract

32. The Contractor / Vendor shall be liable for any loss caused to HAL due to financial or any other irregularities by the employees or labour deployed or working under Contractor / Vendor.

33. **PERFORMANCE BANK GUARANTEE:** Vendor shall furnish a Performance Bank Guarantee as per HAL's format (enclosed) for 10% of order value (to be calculated only on basic cost excluding taxes & duties, if such details are furnished separately in the bid submitted) valid till end of the guarantee / warranty period from a scheduled bank in India / Bank of international repute (for foreign vendors) from the date of acceptance. **In case vendor does not agree for Performance bank Guarantee / Retention of equivalent amount, the offer would be summarily rejected.**

**34. SECURITY DEPOSIT:**

1. Wherever applicable the successful vendor, shall have to deposit 5% of the value of the order as Security Deposit (to be calculated only on basic cost excluding taxes & duties, if such details are furnished separately in the bid submitted) within 15 days of receipt of the purchase order, by demand draft or bank guarantee in a prescribed format of H.A.L from a scheduled bank in India / bank of international repute (for Foreign vendors), valid up to 60 days after the completion of contract period/last supply. This Security Deposit will bear no interest and will be returned only after the contract is completed to the entire satisfaction of H.A.L.

In case, quotes received without indicating the break-up details of GST, ED, VAT, Sales Tax etc. and order placed subsequently on composite value (without indicating break-up details of taxes & duties) then the Security deposit to be sought on the composite value (including taxes & duties)

b) In case the contract is not executed to the entire satisfaction of H.A.L, the security deposit shall be forfeited, besides initiation of risk purchase action.

c) No claim will be entertained against HAL either in respect of interest, if any due on the security deposit or depreciation in value.

d) On due performance and completion of the contract in all respects, the security deposit will be returned to the vendor, without any interest, on presentation of absolute “No Demand Certificate” and upon return in good condition of any specifications, drawings, samples or any other property belonging to the purchaser, which may have been issued to the vendor. **Loading factor of 5% shall be considered while preparing Price Comparative Statement for bidders who have not agreed for submission of Security Deposit.**