SPECIAL CONDITIONS OF CONTRACT (SCC)

1.0 The following Special Conditions of Contract shall be read in conjunction with General Purchase Conditions (GPC) and General Conditions of Contract (GCC). If there are any provisions in these Special Conditions of Contract, which are at variance with the provisions of General Purchase Conditions (GPC) and General Conditions of Contract (GCC), the provisions in these Special Conditions of Contract shall take precedence.

2.0 SCOPE OF WORK INCLUDED IN THE CONTRACT

The brief scope of work included in this tender shall include (but not limited to) Supply, installation, erection, testing and commissioning of ‘Electrical System’ for the project of “Rotable Complex Package Civil-II for Hindustan Aeronautics Ltd. (HAL)” at Ojhar, Nashik.

3.0 QUALIFICATION OF BIDDERS

To be eligible for this tender the bidders should fulfill the requirements for eligibility as mentioned in the Notice Inviting Tender (NIT) and should submit detailed data and credentials set out in Cl 1.0 of ITT [Suppliers] (Vol-I) of the Tender. The Bidders are required to fulfill all the eligibility criteria as stipulated in NIT and elsewhere in the Tender documents. The price bid of bidders who fulfill the eligibility criteria as per evaluation of EPI shall only be opened. The decision of EPI in this regard shall be final & binding on the bidders.

4.0 DISQUALIFICATION

In addition to clause no. 14 of Instructions To Tenderers (Suppliers), the bidders may note that they are liable to be disqualified and may not be considered for the opening of Price Bid if;

a) Representation in the forms, statements and attachments submitted in the pre-qualification document are proved to be incorrect, false and misleading.

b) They have record of poor performance during the past 10 years such as abandoning the work, rescinding of contract for which the reasons are attributable to the non-performance of the bidder, inordinate delay in completion, consistent history of litigation/arbitration awarded against the bidder or any of its constituents or financial failures due to bankruptcy etc. in their on going/past projects.
c) They have submitted incompletely filled in formats without attaching certified supporting documents and credentials to establish their eligibility to participate in the Tender.

d) If the bidders attempt to influence any member of the selection committee.

e) Non submission of EMD.

EPI reserves its right to take appropriate action including disqualification of tenderer(s) as may be deemed fit and proper by EPI at any time without giving any notice to the bidder in this regard. The decision of EPI in the matter of disqualification shall be final and binding on the Bidders.

5.0 EPI reserves the right to independently verify the performance of the bidder from the Existing owners/users/owners’ Consultants. In case any installation of the bidder is found to be performing unsatisfactorily, EPI reserves the right to reject the tender and price bid of such bidder shall not be opened, even if the bidder is meeting the technical and other qualifying criteria.

In such circumstances the bidder shall have no claim on EPI of whatsoever nature.

6.0 PAYMENT TERMS

As per terms of Payment with HAL refer the Conditions of Contract of HAL.

7.0 For Dispatch of materials to Site, the vendor shall mark consignee as “Hindustan Aeronautics Ltd. A/c EPIL, Nashik” and follow dispatch instruction to be given by EPI.

8.0 COMPLETION PERIOD

Completion of the total work shall be as mentioned in the NIT & tender documents.

9.0 The bidder shall comply with legal orders & directions of law of local bodies. The bidder shall give to the Municipality, Police, Local Bodies and concerned Governmental authorities all necessary notices relating to work that may be required under the law and obtain all requisite licenses / permissions. Nothing extra shall be paid by EPI on this account.

10.0 GUARANTEE

The bidder shall guarantee that the materials and workmanship of the apparatus installed by him, under these specifications shall be new and first class in every respect. He will make good any defect, which may develop within 12 months from the date of commissioning of the installation or 18 months from the date of last lot of supply at site whichever is earlier, without any extra cost to EPI/HAL.
11.0 PERMITS AND INSPECTIONS

The bidder shall obtain all necessary permits from local bodies, provincial or central authorities and shall make arrangement for inspection and tests etc. as required at his own cost.

12.0 LICENCES

The bidder shall arrange for obtaining the license for the operation and approval of drawings for the equipments etc. as required from the local Government/authorities at his own cost & nothing extra shall be payable.

13.0 The work shall be carried out in accordance with the drawings approved by the EPI/HAL. Before the commencement of any item of work, the bidder shall correlate all the relevant drawings/documents/specification issued for the work and satisfy himself that the information available there from is complete and unambiguous. The discrepancy, if any, shall be brought to the notice of Engineer-In-Charge before the execution of work. The bidder alone shall be responsible for any loss or damage occurring by the commencement of work on the basis of any erroneous and/or incomplete information. Nothing extra shall be paid on this account.

14.0 The bidder shall give performance tests of the entire installation(s) as per specifications and drawings before the work is finally accepted and nothing extra whatsoever shall be payable to the bidder for these performance tests.

15.0 Bill of Quantities shall be read in conjunction with NIT, Instructions to Tenderers (Suppliers), Addendum to ITT(Suppliers), Special Conditions Contract(SCC), General Purchase conditions, GCC, , Technical specifications, Drawing, Schedules, and Annexure & Addendum etc. to tender Document.

16.0 After completion of installation, testing and commissioning of all the equipment as per tender specifications, the bidder shall, however, provide proper training to the Owner's employees/representatives for maintenance and operation of the equipment without any additional cost.

17.0 The bidder has to arrange for inspection of equipment and shall submit internal inspection certificate/document and nothing extra shall be paid.

18.0 Care shall be taken in handling of material to avoid damage. Any damages made to the equipment during transit shall be made good by the bidder at his own cost.

19.0 TEST CERTIFICATE
All manufacturer’s certificates of test showing that the materials have been tested in accordance with the requirements of the relevant standard specification and the copy of the test certificate as well as standard shall be supplied free of cost to EPI for onward submission to HAL.

20.0 INITIAL INSPECTION AT MANUFACTURER’S WORK:

The bidder shall provide such facilities as will be necessary for inspection of the material before dispatch at his or his associate’s works and also for witnessing such tests as per technical specifications, as are done at the works if so required by HAL/EPI. The bidder shall give minimum two weeks notice regarding the dates proposed for inspections. The Tenderer shall submit list of test on components of equipments, which shall be carried out at manufacturer’s premises.

21.0 INSPECTION DURING INSTALLATION AND FINAL INSPECTION:

The bidder shall arrange for checking and testing at his own cost the installation as per technical specifications. All instruments and materials required for testing shall be the responsibility of the successful bidder. The final inspection of the installation and testing of equipment may be carried out by EPI/HAL. The taking over of equipment after trial run shall be subject to removal of defects by the successful bidder at his own cost, if any, pointed out during the inspection.

22.0 SITE ENGINEER (For Installation, Testing & Commissioning):

   a) Experienced Engineers and supervisor to be posted during installation, testing and commissioning.

23.0 It will be the sole responsibility of bidder to obtain all statutory approvals and completion clearance from the all relevant statutory bodies and for all other services as included in the scope of contract etc. from the concerned department as required within the stipulated time frame. Liaison work on behalf of EPI with the local bodies will also have to be done by the bidder. Nothing extra shall be payable to bidder on this account. No claim whatsoever in this regard shall be entertained.

24.0 LIQUIDATED DAMAGES DUE TO DELAY IN “COMPLETION OF THE FACILITIES”:

The Clause No.13. of GPC shall be amended & replaced as under :

If the Successful bidder fails to attain completion of the work within the time of completion or any extension thereof, due to reasons not attributable to the EPI, the EPI shall recover the amount of Liquidated Damages, but not by way of penalty, by making deductions from the Successful bidder’s RA bills or by encashment of their
Bank Guarantees at the rate of 0.5% of the Contract Price plus escalation, if any, excluding taxes & duties per complete week of delay or part thereof up to a maximum of 5% of the contract price plus escalation, if any, excluding taxes & duties.

However, the payment of liquidated damages shall not in any way relieve the successful bidder from any of its obligations to complete the facilities or from any other obligations and liabilities of the successful bidder under the contract.

25.0 INSTALLATION, TESTING & COMMISSIONING

Rate quoted by bidder are firm & should include charges for installation, erection, testing & commissioning at site.

26.0 CONTRACT PERFORMANCE SECURITY

26.1 The successful bidder shall be required to furnish to EPI a contract Performance Security for the value of five percent (5%) of their total contract value which shall be kept valid for one year beyond the actual date of successful completion of Defect Liability Period. The EMD Bank Guarantee shall be kept valid by the successful bidder till the Contract Performance Security is accepted.

26.2 The Contract Performance Security shall be furnished within Ten (10) days from the date of LOI / work order in the form of a Bank Guarantee in favour of Engineering Projects (India) Ltd., payable at New Delhi in EPI’s format of Security Deposit cum Performance B.G. from a Nationalized / Scheduled Bank valid until one year from the date of expiry of the Defect Liability Period.

27.0 The bidders shall submit quality plans and programmes which shall set out, during the various stages of work, the quality practices and procedures followed by the bidders quality control organization, the relevant document / standard used, acceptance level, inspection document raised etc. Such quality plans of the successful bidder shall be discussed and finalized in consultation with HAL Nashik and EPI and shall form part of the order.

28.0 Competent personnel shall be deployed by the BIDDER for jobs requiring special skills.

29.0 In the event of slackness, delay, bad-workmanship and any other default on part of the Bidder, EPI shall cancel the order and carry out the same at the risk and cost of the Bidder.

30.0 BIDDER confirms that they have read, understood, have copies of the “Tender Documents” and have visited the site. Their offer is based on the ‘Tender Documents’ and caters to all the works, requirements etc. thereof.
31.0 All men, materials, machinery, tools and plants, infra-structure, resources etc., as required for execution of works shall be provided and arranged by BIDDER for their portion of work. The amount / rate quoted in their offer by BIDDER to EPI includes all charges, all direct and indirect cost of works, materials, labour, plant & equipment, all taxes, duties, levies, royalties, octroi, VAT, WCT / TOT, service tax, labour cess etc., all transportation charges including for cartage of issue material, electricity and water charges and for all expenses, such as labour camp, bank guarantee charges, insurance charges, EPF/CPF/ Statutory contributions and other expenses whatsoever, incurred on execution, completion and maintenance of the works as per ‘Tender Documents’ and their own overheads and profit etc. BIDDER shall comply with all the requirements laid down as per ‘Tender Documents’ and shall un-conditionally abide by its offer quoted for execution of works as per terms, conditions, specifications, drawings, documents etc. given in the ‘Tender Documents’ for the completion, handing over, maintenance period etc. for the project.

32.0 The BIDDER shall take insurance cover at its own cost towards Workman Compensation Act for its own workers, employees and for the Plant & Equipment deployed by the BIDDER at the project site and shall furnish documentary proof of the same to EPI failing which no payments shall be released to the BIDDER against work done. The BIDDER shall assist EPI in follow-up with insurance company in case of any claim related to BIDDER’s scope of work. EPI is not liable to pay any claim of the BIDDER if it is not paid by insurance company due to any reasons whatsoever. The insurance cover for the complete project shall be arranged by EPI at its own cost.

33.0 Earnest Money Deposit submitted by BIDDER along with their offer as security to un-conditionally abide by its offer shall be kept valid for a period of 150 days from the last date of submission of offer. The EMD is liable to be forfeited if the BIDDER revokes / withdraws its offer during its validity or extended validity period of offer. In case of revocation / withdrawal of offer by BIDDER after issuance of LOI/ Work Order and during its validity or non-start of work within stipulated time and non submission of performance security / any other security etc. if required to be submitted by the BIDDER to EPI after award of work, EPI shall have the option to forfeit the EMD and get the work executed at the risk & cost of the BIDDER. The decision of EPI in this regard shall be final & binding on BIDDER.

34.0 In the event of award of works, BIDDER shall submit to EPI, Bank Guarantees from a Nationalized / Scheduled Bank towards mobilization advance, performance, retention money, security deposit etc. as required by EPI / Client / Local Authorities as per conditions of the ‘Tender Documents’ (in the prescribed proforma of EPI) in favour of EPI, for BIDDER’s portion of work. In case any initial cash deposits are to be made to the Client, the same shall be made by EPI and BIDDER in proportion to their respective value of the contract.
35.0 In case BIDDER is awarded the works and fails to execute the same as per agreed schedule of progress of work and as per specified quality and / or lags behind in activities required for timely completion of works, as determined by EPI / Client, then EPI shall give 15 days written notice to BIDDER to achieve the specified quality and / or to deploy adequate resources to the satisfaction of EPI, for timely completion of works. Upon expiry of the notice period, if BIDDER fails to achieve specified quality and / or fails to take action for timely completion of works, then EPI shall have option to withdraw the remaining work partly or in full from BIDDER and get the same executed at the risk and cost of the BIDDER from alternative agency / agencies besides encashment of the guarantees submitted by the BIDDER to EPI. The decision of EPI in this regard shall be final and binding on the BIDDER.

36.0 The BIDDER shall post adequate competent engineers and supervisory staff at site for day-to-day execution and supervision of its works etc. during the entire duration of the contract including maintenance / defect liability period. The minimum number and level of engineers, supervisors and other personnel to be deployed by the BIDDER should be as directed by EPI. In case the BIDDER fails to deploy adequate number of personnel at site / office, EPI after giving seven days notice shall engage the required personnel solely at the risk and cost of the BIDDER and debit the cost of the same to the account of BIDDER. EPI shall exercise overall management, monitoring and coordination of project. EPI shall not post any staff during maintenance / defect liability period for which the BIDDER shall make suitable arrangement to the satisfaction of EPI / Client at his own cost.

37.0 The BIDDER shall be responsible for timely completion of the works within the contractual completion period. In case the project execution is delayed beyond the contractual scheduled completion period due to reasons attributable to the BIDDER. Total Liquidated Damages / Compensation for delay, if any, imposed / deducted from EPI’s bills by Client shall be recovered from BIDDER’s bills or other dues. The decision of EPI in this regard shall be final & binding on the Bidder.

38.0 Successful bidder has to submit copies of EPF Code number, CST-TIN, VAT-TIN/ Sales tax on Works contract number, Service tax registration number, PAN (Permanent Account Number of Income Tax) etc. before release of any payment and shall be responsible for depositing EPF subscription and contribution for labour and staff employed by it on the works and Service tax, other taxes, duties and dues etc. as per statutory requirements and documentary evidence of same shall be provided to EPI. The BIDDER shall also be responsible for labour welfare and for arranging labour and other licenses / permits / clearances etc. for the project at their own cost. In case EPI has to take labour license or and other licenses, all expenditure towards the same shall also be borne by the BIDDER. The BIDDER shall comply with all the requirements as per labour laws / acts. All the records in this regard shall be maintained by BIDDER as per statutory requirements and rules and shall be produced by the BIDDER on demand if required.
39.0 The BIDDER shall be responsible for obtaining all approvals from Client with regard to quality of materials & workmanship and measurements etc. for their portion of work. All such approvals shall be in the name and title of EPI. The BIDDER shall be responsible for reconciliation of issue material with Client, if any. Any shortfall in issue materials shall be made good / recovered from BIDDER as per terms of EPI’s contract with the Client.

40.0 The BIDDER will not correspond directly with client and all the correspondence in matters regarding bills, claims, interpretation of the specifications, conditions and all matters related to the contract with Client, Client’s Consultants, all other agencies including Government and Statutory bodies etc. shall be done through EPI only. BIDDER shall prepare and submit expeditiously all bills, claims, details, clarifications, documents, information, etc. as required by EPI / Client for proper execution and successful completion of the works.

41.0 In case of non-approval of BIDDER’s association for the project by the Client due to any reasons, the BIDDER shall have no claim on EPI.

42.0 Income tax shall be deducted as per income tax act as applicable.

43.0 The BIDDER shall plan and execute its scope of work in such a manner that the other works, connected with the works of the BIDDER, but not included in BIDDER’s scope of work, do not get affected / delayed.

44.0 The BIDDER shall deploy sufficient plant & equipment of the required capacity and in good working condition for completion of the works in stipulated time with required quality. The equipment should either be owned by the BIDDER or hired / leased. The deployment of equipment by BIDDER shall be as decided by EPI and the same shall not be less than the minimum deployment stipulated by the Client, if any, for execution of works and as per schedule agreed with EPI. The BIDDER shall make arrangement for regular maintenance including preventive and breakdown maintenance and maintain stock of essential spares at site / near to site so as to ensure minimum breakdown time of equipment. The equipment once brought to site shall not be allowed to be removed without the consent of EPI. In case the BIDDER fails to deploy sufficient equipment to the satisfaction of EPI or in case of prolonged breakdown of equipment, EPI at its sole discretion shall arrange the required equipment and debit all the related costs including ten percent overheads of EPI and shall recover the same from the due payments of BIDDER, including from its bank guarantees available with EPI.

45.0 BIDDER shall ensure compliance with all Central, State and Local laws, Rules, Regulations etc. as applicable or may be applicable during the course of execution, maintenance etc. of the works and shall indemnify EPI against any claim or damages
 whatsoever on such accounts. The BIDDER shall keep EPI indemnified at all times against infringement of any Patent or Intellectual property rights.

46.0 EPI is an ISO 9001, ISO 14001 and OHSAS 18001 : 2007 certified company. the conditions of the ISO as applicable should be followed by the BIDDER for implementation & maintaining the established procedures of EPI for this purpose.

47.0 The work executed by BIDDER shall be subject to audit and quality control checks from Quality Control Division & Technical Audit of EPI, client, Inspecting Agency of the Client and chief Technical Examiner of Central Vigilance commission, Govt. of India. In the eventuality of any defect / sub-standard works as brought out in the report or noticed otherwise at any time during execution, maintenance period etc., the same shall be made good by the BIDDER without any cost to EPI. In case BIDDER fails to rectify the defect / sub-standard work within the time period stipulated by EPI, EPI shall get it rectified at the risk and cost of BIDDER and shall recover the amount from the dues of the BIDDER.

48.0 CONCILIATION AND ARBITRATION

Before resorting to arbitration as per the clause given below, the parties if they so agree may explore the possibility of conciliation as per the provisions of Part-III of the Arbitration and Conciliation Act.1996. When such conciliation has failed, the parties shall adopt the following procedure for arbitration:

48.1 Except where otherwise provided for in the contract, any disputes and differences relating to the meaning of the specifications, designs, drawings and instructions herein before mentioned and as to the quality of workmanship or materials used in the work or as to any other question, claim, right, matter or thing whatsoever in any way arising out of or relating to the contract, designs, drawings, specifications, estimates, instructions or these conditions or otherwise concerning the works or the execution or failure to execute the same whether arising during the progress of the work or after the completion or abandonment thereof shall be referred to the Sole Arbitration of the Chairman and Managing Director (CMD) of Engineering Projects (India) Limited (EPI), or any other person discharging the functions of CMD of EPI and if CMD or such person discharging the function of CMD of EPI is unable to act, to the Sole Arbitration of some other person appointed by the CMD of EPI or such other person discharging the functions of CMD of EPI. There will be no objection if the arbitrator so appointed is an employee of Engineering Projects (I) Ltd. However, such an employee shall not have directly dealt with the said contract or the works there under on behalf of EPI. Such Arbitrator shall be appointed within 30 days of the receipt of letter of invocation of arbitration duly satisfying the requirements of this clause.
48.2 If the arbitrator so appointed resigns his appointment, is unable or unwilling to act due to any reason whatsoever, or dies, the Chairman & Managing Director aforesaid or in his absence the person discharging the duties of the CMD of EPI may appoint a new arbitrator in accordance with these terms and conditions of the contract, to act in his place and the new arbitrator so appointed may proceed from the stage at which it was left by his predecessor.

48.3 It is a term of the contract that the Bidder invoking the arbitration shall specify the dispute/differences or questions to be referred to the arbitrator under this clause together with the amounts claimed in respect of each dispute.

48.4 The arbitrator may proceed with the arbitration ex-parte, if either Bidder, in spite of a notice from the arbitrator, fails to take part in the proceeding.

48.5 The work under the contract shall continue, if required, during the arbitration proceedings.

48.6 The arbitrator shall make speaking Award and give reasons for his decisions in respect of each dispute/claim along with the sums awarded separately on each individual item of dispute or difference or claims. The Arbitrator shall make separate award on each reference made to him.

48.7 The award of the arbitrator shall be final, conclusive and binding on both the parties.

48.8 Subject to the aforesaid, the provisions of the Arbitration and Conciliation Act, 1996 or any statutory modifications or re-enactment thereof and the Rules made there under and for the time being in force shall apply to the arbitration proceedings and Arbitrator shall publish his Award Accordingly.

Note: Notwithstanding anything contained here in above, this clause shall not be applicable where the dispute is between EPI and another Public Sector Enterprise or Govt. Department for which a separate Arbitration Clause is provided vide Clause No. A given below: -

A. ARBITRATION BETWEEN PUBLIC SECTOR ENTERPRISES INTERSE / GOVERNMENT DEPARTMENTS.

1. In the event of any dispute or difference relating Interpretation and application of the provisions of the contract, such dispute or difference shall be referred by either Bidder to the arbitration as per the instructions (Office Memorandum/Circulars) issued by Govt. of India from time to time with regard to arbitration between one Govt. Deptt and another, one Govt. Deptt. and a Public Sector Enterprise and Public Sector Enterprises inter se.
2. Subject to any amendment that may be carried out by the Government of India from time to time the procedure to be followed in arbitration shall be as is contained D.O. No. DPE/4(10)/2001-PMA-GL1 dated 22/01/2004 of Department of Public Enterprises, Ministry of Heavy Industries and Public Enterprises or any modification issued in this regard.

49.0 CENVAT

49.1 The Bidder will ensure dispatches of his own manufactured as well as all bought out plant, equipment & materials directly to work site of the HAL/EPI in such a manner that the HAL/EPI will get the CENVAT benefit on account of Excise Duty on indigenous plant, equipment & materials and Countervailing duty (if any), Cess and Additional Duty of Customs on imported plant & equipment.

49.2 Excise Invoices for all indigenous plant, equipment & materials shall be made consigned to “Hindustan Aeronautics Ltd., Nashik” A/c. EPIIL for availing CENVAT Credit under relevant Rules and shall be furnished by the Bidder to the HAL/EPI for availing CENVAT Credit.

49.3 For supply of all imported plant & equipment by overseas suppliers, the Bidder shall furnish all required Documents including bill of entry in original etc. to enable the HAL/EPI to avail the CENVAT Credit.

49.4 The Bidder shall also submit any other Document required by the HAL/EPI to avail the CENVAT credit. In case, the Bidder fails to submit the required document for availing the CENVAT credit by the HAL/EPI in respect of supplies, the amount of Excise Duty on such indigenous plant & equipment and countervailing duty on imported plant & equipment may be recovered by the HAL/EPI from the Bidder unless the Bidder furnishes proper justification.

49.5 Bidder shall submit all relevant document & Tax paid invoices required by the HAL/EPI to avail the VAT towards admissible input tax credit as per Chhattisgarh VAT and Chhattisgarh VAT rule as prevailing and/or as modified from time to time. In case the Bidder fails to submit the required documents for availing the VAT input credit by the HAL/EPI, irrespective of the successful bidder status for opting for regular or composite scheme of VAT, the amount of balance VAT will not be reimbursed to the Bidder. However, VAT credit in excess amount will be to HAL/EPIs account.

49.6 The HAL/EPI will issue way bills as required for dispatch of materials to the Bidder on request. Advance intimation in this regard is to be given by the Bidder to the HAL/EPI.
49.7 For direct supply of the indigenous bought-out plant & equipment by the Sub-Bidder to the HAL/EPI, the Bidders will draw their invoices as per relevant trade notice to enable the HAL/EPI to avail the CENVAT Credit.

50.0 Dispatch instructions shall be issued to successful bidder separately.