ENGINEERING PROJECTS (INDIA) LIMITED  
(A Government of India Enterprise)  
Southern Regional Office, Chennai

Tender No. SRO/MKT/TH/299 21.07.2014

NOTICE INVITING TENDER

1. Tender for Brick Work and plastering Work for Construction of Hangars & Utility Buildings & allied facilities, Package-III at HAL, Nasik in sealed cover for items as mentioned in Price Bid and Instruction to tenderer (ITT) enclosed and as per details technical specification.

2. Engineering Projects (India) Ltd., invites the sealed item rate tenders as per the brief particulars of scope of work in this tender shall include (but not limited to) Construction of Hangers & Utility Buildings & allied facilities, etc. (further detailed in Client Document, Volume – I) as specified in Bill of Quantities (BOQ) and Technical specifications’ from the eligible and interested bidders who are well experienced in the similar type of works and the details are given below:

3. Engineering Projects (India) Ltd., invites the sealed tenders as per the brief particulars of scope of work in this tender shall include (but not limited to) Brick Work and plastering Work as specified in Price Bid / Bill of Quantities (BOQ) and Technical specifications’ from the eligible and interested bidders who are well experienced in the similar type of works and the details are given below:

<table>
<thead>
<tr>
<th>Pkg</th>
<th>Name of Work</th>
<th>Estimated Cost (Rs.)</th>
<th>Time of Completion</th>
</tr>
</thead>
</table>

4. Time schedule of Tender activities:

   (i) Date & Time for downloading tender documents: From 21.07.2014 to 29.07.2014 upto 5:00 PM

   (ii) Last Date & Time of submission of Tenders: On or before 30.07.2014 – by 02.00 PM

   (iii) Date & Time of opening tender (Techno-Commercial Bid): 30.07.2014 at 03:00 PM

5. Contractors who fulfill the following basic qualifying requirements are eligible to participate in the tender. Joint Venture parties are not allowed to participate in this tender.
Experience of having successfully executed Similar works Brick, Plastering Work, civil superstructure, finishing work.

a) Should have a valid PAN (Permanent Account Number of Income Tax)

b) It is desirable to have valid PF Registration No. & VAT Registration No. In case, the parties do not have PF Registration No. & VAT Registration No. then they will have to give undertaking that they will obtain PF Registration No. & VAT Registration No. within one month of award of work or before release of payment against 1st RA Bill.

c) Should have valid VAT & Service tax Registration number.

d) Even though an applicant may satisfy the eligibility criteria, EPI reserves the right for not issuing the tender document if the applicant's has record of poor performance such as abandoning work, not properly completing the work, delay in completion of work, poor quality of work, financial failure / weakness etc.

6. EPI reserves the right to extend the date of submission of the tender or cancel the tender or annul this process without assigning any reason whatsoever.

7. Tender documents comprising of the following are available on the website of: www.epi.gov.in /www.eprocure.gov.in.

(i) Notice Inviting Tender

(ii) Instruction to Tenderers & General Conditions of Contract, Memorandum, Form of Tender, Letter of Undertaking

(iii) Technical Specifications

(iv) Price Bid / Bill of Quantity

8. The Terms & Conditions contained in this NIT and tender documents shall be applicable

9. EPI reserves the right to accept any tender or reject any or all tenders or annul this tendering process without assigning any reason and liability whatsoever and to re-invite the tender at its sole discretion.

10. The corrigendum or addendum, extension, cancellation of this NIT, if any, shall be hosted on the www.epi.gov.in / www.eprocure.gov.in. The bidders are required to check EPI's website regularly for this purpose, to take into account before submission of tender. All Corrigendum and addendum are to be submitted duly signed & stamped.

11. The price bid of those bidders whose bid has been technically accepted on the basis of documents submitted shall be opened with prior intimation to them. However, it is made clear that the offer of the L-1 (Lowest) bidders shall be accepted subject to the confirmation of authentically of the PQ documents.
12. The tenderer is required to submit all the documents duly signed and stamped on each page as token of acceptance.

13. The Tender documents shall be submitted to

To

The General Manager
Engineering Projects (India) Ltd.
3-D, East Coast Chambers
92, G.N. Chetty Road
T.Nagar, Chennai 600 017

Tele fax No. 02550-273001
Office Phone- 044-28156886
Contact- 09561842500
ADDITIONAL CONDITIONS OF CONTRACT

1. Commencement and Completion of Project: The date of start of contract shall be reckoned from the date of issue of letter / telegram / FAX of Intent and the total work has to be completed in – 4 (four) Months.

2. Tender Documents: Following documents shall form the part of contract Documents and the tenderer shall submit these documents along with the other documents mentioned elsewhere in the tender.
   a. Notice inviting the Tender
   b. Letter of Undertaking
   c. Form of Tender
   d. Memorandum
   e. Special conditions of Contract
   f. Technical Specifications
   g. Price Bid / Bill of Quantity

3. Taxes and Duties:

   The relevant and required documents in respect of VAT assessment / service tax assessment for EPI for availing exemption / deductions by EPI are to be submitted along with each RA bill failing which the VAT Tax levied / suffered by EPI is to be borne by the contractor and will be recovered from the forthcoming bills. The bills are to be submitted in the format required under the respective tax acts indicating input tax.

4. All men, materials, machinery, tools and plants, infra-structure, resources etc., as required for execution of “Works” shall be provided and arranged by PARTY for their portion of work. The amount/rate quoted in their offer by PARTY to EPI includes all charges, all direct and indirect cost of works, materials, labour, plant & equipment, all taxes, duties, levies, royalties, octroi, entry tax, VAT, WCT/TOT, service tax, labour welfare cess etc., all transportation charges including for cartage of issue material, electricity and water charges, site offices expenses, labour camp, bank guarantee charges, insurance charges, EPF/CPF/ Statutory contributions, preparation of all required design & detailed engineering and all required drawings etc., other expenses whatsoever, incurred on execution, completion and maintenance of the “Works” as per ‘Tender Documents’ and their own overheads and profit etc. PARTY shall comply with all the requirements laid down as per ‘Tender Documents’ as per terms, conditions, specifications, drawings, documents etc. given in the ‘Tender Documents’ for the completion, handing over, maintenance period etc. for the project.

5. The final bill payment to the PARTY shall be when PARTY submits Sales Tax /VAT clearance certificates, EPF clearance certificate, all other clearances, approvals, certificates etc. as per agreement of EPI with the client for the “Works” and as per statutory requirement.

6. Escalation is not payable. The prices of PARTY shall be firm and fixed till the completion, handing over, Defect liability period, etc. of the contract. Payment of all extra / substituted / variation items etc. related to PARTY’s scope of work admitted and paid by Client, if any, shall also be made by EPI to PARTY proportionately. Any claim by PARTY, if not paid by the Client, whatsoever be the reason shall not be admissible against EPI.
7. The PARTY shall be fully responsible to complete the “Works” in workmen like manner to the satisfaction of Client and EPI by maintaining high standard of quality and precision as per ‘Tender documents’, Agreements, Terms & Conditions, Specifications, Drawings etc., within the contractual completion period and within their quoted rates/amount. In case Client reduces or increases scope of work related to PARTY’s portion of work, the same shall be binding on PARTY and the PARTY has to execute the same at rates paid by the Client less EPI’s markup.

8. **Liquidated Damages/Compensation** for delay as per Annexure-C.

9. Issues related to interpretation and claims, if any, related to PARTY’s scope of work, arising out of contract between EPI and Client shall be referred with full justification by PARTY to EPI for settlement with Client including arbitration with Client, if inescapable, and outcome of such a settlement shall be binding on PARTY. EPI at its option may associate the PARTY in the above process of settlement for PARTY's portion of work. The cost & expenses on arbitration with Client shall be shared by EPI and PARTY in proportion of PARTY's offer and EPI's mark up towards its overheads & profits. In case the award/settlement with the Client is in favour of EPI, ninety percent of the award/settlement amount shall be shared between EPI and PARTY in proportion of PARTY's contract price with EPI and EPI's mark up towards its overheads & profits. The balance ten percent of the award/settlement amount shall be retained by EPI towards its administrative charges. In case the award/settlement is against EPI, the entire damages/counterclaims imposed, if any, shall be borne by PARTY alone and the PARTY shall have no claim whatsoever against, EPI in such a settlement. Further, EPI shall have no liability towards any claim of the PARTY, which are not paid by the Client.

10. The party shall plan and execute the “Work” in his scope of work in such a manner that the other works, connected with the “Works” of the party, but not included in Party’s scope of work do not get affected / delayed.

11. PARTY 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 PARTY shall keep EPI indemnified at all times against infringement of any Patent or Intellectual Property rights.

12. The contractor shall make necessary safety arrangements at site including as mentioned in GCC and indemnify EPI against any consequence of accident at site.

13. All the plant & machineries required for execution of the project are in the scope of the party and the same are to be mobilized at site immediately.

14. The bid should be submitted in original documents as issued by EPI or as downloaded from the website www.epi.gov.in or www.eprocure.gov.in. No alteration or correction should be made under any circumstances in the bid documents issued by EPI or as downloaded from the website.

15. If there are any provisions / conditions in these Additional Conditions of Contract, which are at variance with the provisions / conditions of General Conditions of Contract of EPI / Client or mentioned elsewhere in the tender, the provisions / conditions in these Additional Conditions of Contract shall take precedence.
16. The contractor shall have to execute the work in pace and in such a way to facilitate agencies engaged simultaneously for execution of other works required for completion of the Structure / Building. No claim shall be entertained due to work being executed in the above circumstances.

17. Retention Money – Please refer Memorandum

18. Defect Liability Period – **6 (Six) Months** from the date of taking over of works

19. Other Terms and conditions
   a. Party shall make its own arrangement for electricity; water etc, at their own cost.
   b. In the event of slackness, slow progress of work, delay, bad workmanship and any other defaults on the part of the PARTY, EPI reserves the right to withdraw part of whole of the work and carryout the same at the risk and cost of the PARTY.
   c. The bidder should note in figures as well as in words for the rates and amounts quoted by them.
   d. EPI reserves the right to split the work. Even after opening the tender EPI may enter into agreement with more than one party or may enter into agreement for part of the total work included in the Tender. In such an event, the contractor shall not be allowed to revise upward their quoted rates.

20. **Quantity Variation**: The rates quoted by the bidder shall remain firm up to a quantity variation of plus or minus 20% to the quantities mentioned in the Price Bid.
MEMORANDUM  
(ENCLOSURE TO FORM OF TENDER)

REF. :  Brick Work & plastering work for Construction of Hangars & Utility Buildings & allied facilities Package-III at HAL, Nasik


<table>
<thead>
<tr>
<th>Sl. No.</th>
<th>Description</th>
<th>Clause No.</th>
<th>Values / Description to be application for relevant clause(s)</th>
</tr>
</thead>
<tbody>
<tr>
<td>ii)</td>
<td>Owner / Client / Employer</td>
<td></td>
<td>HINDUSTAN AERONAUTICS LTD, NASIK</td>
</tr>
<tr>
<td>iii)</td>
<td>Type of Tender</td>
<td></td>
<td>ITEM RATE</td>
</tr>
<tr>
<td>iv)</td>
<td>Earnest Money Deposit</td>
<td>NIT</td>
<td>Nil</td>
</tr>
<tr>
<td>v)</td>
<td>Estimated Cost</td>
<td>NIT</td>
<td>Rs.41,17,000/- (Rupees Forty One Lakh Seventeen Thousand Only)</td>
</tr>
<tr>
<td>vi)</td>
<td>Time for completion of work</td>
<td>NIT</td>
<td>4 months from the date of issue of telegram / letter / FAX of Intent of Tender.</td>
</tr>
<tr>
<td>vii)</td>
<td>Mobilization Advance</td>
<td>8</td>
<td>nil</td>
</tr>
<tr>
<td>viii)</td>
<td>Interest Rate on Mobilization</td>
<td>8</td>
<td>nil</td>
</tr>
<tr>
<td>ix)</td>
<td>Number of installments for recovery of Mobilization Advance</td>
<td>8</td>
<td>nil</td>
</tr>
<tr>
<td>x)</td>
<td>Schedule of Rates Applicable</td>
<td>69</td>
<td>As mentioned in the Price Bid / Bill of Quantities</td>
</tr>
<tr>
<td>xi)</td>
<td>Validity of Tender</td>
<td>4</td>
<td>60 (sixty) days</td>
</tr>
<tr>
<td>xii)</td>
<td>Security Deposit cum Performance Guarantee</td>
<td>9</td>
<td>5% (Five Percent only) of the contract value of the accepted tender in the form of Crossed Demand Draft / Bank Guarantee from a Nationalized Bank / Scheduled Bank within 15 days from the date of issue of letter / fax / telegram of Intent of tender.</td>
</tr>
<tr>
<td>xiii)</td>
<td>Retention Money</td>
<td><strong>5% of contract sum</strong> shall be deducted from RA bills which shall be returned / paid after Defect liability period.</td>
<td></td>
</tr>
<tr>
<td>xiv)</td>
<td>Defect Liability Period</td>
<td><strong>6 (Six) months</strong> from the date of taking over of works.</td>
<td></td>
</tr>
<tr>
<td>xv)</td>
<td>Time allowed for starting the work</td>
<td>43.0</td>
<td>The date of start of contract shall be reckoned from the date of issue of telegram / letter / FAX of Intent of Tender.</td>
</tr>
<tr>
<td>xvi)</td>
<td>Arbitration</td>
<td>76</td>
<td>As per <strong>Annexure-B</strong></td>
</tr>
<tr>
<td>xvii)</td>
<td>Jurisdiction</td>
<td>76.3</td>
<td>Courts in Chennai</td>
</tr>
</tbody>
</table>

SIGNATURE OF TENDERER

NAME (CAPITAL LETTERS):_________________________________________

OCCUPATION:_________________________________________

ADDRESS:_________________________________________

_________________________________________

SEAL OF TENDERER
<table>
<thead>
<tr>
<th></th>
<th>CONTACT DETAILS</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.</td>
<td>Name of the tenderer:</td>
</tr>
<tr>
<td></td>
<td>-------------------------------</td>
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<tr>
<td>2.</td>
<td>Name of the contact person:</td>
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<tr>
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<td>-------------------------------</td>
</tr>
<tr>
<td>3.</td>
<td>Details of the person who signed this tender documents</td>
</tr>
<tr>
<td></td>
<td>Name:</td>
</tr>
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<td></td>
<td>-------------------------------</td>
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<tr>
<td></td>
<td>Designation:</td>
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<td></td>
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<tr>
<td>4.</td>
<td>Postal address for communication:</td>
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<td>5.</td>
<td>E-mail address:</td>
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<tr>
<td>6.</td>
<td>Office phone numbers:</td>
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<td></td>
<td>-------------------------------</td>
</tr>
<tr>
<td>7.</td>
<td>Fax numbers:</td>
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<td></td>
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</tbody>
</table>
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:

1. Except where otherwise provided for in the contract, any disputes and differences relating to the meaning of the specifications, designs, drawings and 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 is unable to act, to the Sole Arbitration of some other person appointed by the CMD of EPI or such 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.

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.

3. It is a term of the contract that the party 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.

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

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

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.

7. The award of the arbitrator shall be final, conclusive and binding on both the parties.
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 herein 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 party 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.
ANNEXURE-C

COMPENSATION FOR DELAY AND REMEDIES

1.1 If the Contractor fails to maintain the required progress in terms of clause 1.4 or relevant clause of Additional Conditions of Contract, to complete the work and clear the Site on or before the completion date or extended date of completion, he shall, without prejudice to any other right or remedy available under the law to EPI on account of such breach, pay as agreed compensation the amount calculated at the rates stipulated below or such smaller amount as the Engineer in charge (whose decision in writing shall be final and binding) may decide on the amount of tendered value of the work for every completed day / week (as applicable) that the progress remains below that specified in Clause 1.4.1 or the relevant clause in Additional Conditions of Contract or that the work remains incomplete. This will also apply to items or group of items for which a separate period of completion has been specified.

i) For works with completion period not exceeding 3 month (as originally stipulated) @ 1% per day
ii) For works with completion period exceeding 3 months (as originally stipulated) @ 1% per week or part thereof

Provided always that the total amount of compensation for delay to be paid under this Condition shall not exceed 10% of the Tendered Value of work or of the Tendered Value of the item or group of items of work for which a separate period of completion is originally given.

The amount of compensation may be adjusted or set-off against any sum payable to the Contractor under this or any other contract with EPI even after completion of the work.

1.2 CANCELLATION / DETERMINATION OF CONTRACT IN FULL OR PART

Subject to other provisions contained in this clause, the Engineer-In-Charge may, without prejudice to his any other rights or remedy against the Contract in respect of any delay, inferior workmanship, any claims for damages and / or any other provisions of this contract or otherwise, and whether the date of completion has or has not elapsed, by notice in writing absolutely determine the contract in full or in part in any of the following cases:

i) If the Contractor having been given by the Engineer-In-Charge a notice in writing to rectify, reconstruct or replace any defective work or that the work is being performed in an inefficient or otherwise improper or un-workmanlike manner shall omit to comply with the requirement of such notice for a period of seven days thereafter; or

ii) If the Contractor has, without reasonable cause, suspended the progress of the work or has failed to proceed with the work with due diligence so that in the opinion of the ENGINEER-IN-CHARGE (which shall be final and binding) he will be unable to secure completion of the work by the date for completion and continues to do so after a notice in writing of seven days from the Engineer-In-Charge; or
iii) If the Contractor fails to complete the work within the stipulated date or items of work with individual date of completion, if any stipulated, on or before such date(s) of completion and does not complete them within the period specified in a notice given in writing in that respect by the Engineer-In-Charge; or

iv) If the Contractor persistently neglects to carry out his obligations under the contract and / or commits default in complying with any of the terms and conditions of the contract and does not remedy it or take effective steps to remedy it within 7 days after a notice in writing is given to him in that respect by the Engineer-In-Charge; or

v) If the Contractor shall offer or give or agree to give to any person in EPI service or to any other person on his behalf any gift or consideration of any kind as an inducement or reward for doing or forbearing to do or for having done or forborne to do any action in relation to the obtaining or execution of this or any other contract for EPI; or

vi) If the Contractor shall enter into a contract with EPI in connection with which commission has been paid or agreed to be paid by him or to his knowledge, unless the particulars of any such commission and the terms of payment thereof have been previously disclosed in writing to the Engineer-In-Charge; or

vii) If the Contractor shall obtain a contract with EPI as a result of wrong tendering or other non-bona-fide methods of competitive tendering; or

viii) If the Contractor being an individual, or if a firm, any partner thereof shall at any time be adjudged insolvent or have a receiving order or order for administration of his estate made against him or shall take any proceedings for liquidation or composition (other than a voluntary liquidation for the purpose of amalgamation or reconstruction) under any Insolvency Act for the time being in force or make any conveyance or assignment of his effects or composition or arrangement for the benefit of his creditors or purport so to do, or if any application be made under any Insolvency Act for the time being in force for the sequestration of his estate or if a trust deed be executed by him for benefit of his creditors; or

ix) If the Contractor being a company, shall pass a resolution or the Court shall make an order for the winding up of the company, or a receiver or manager on behalf of the debenture holders or otherwise shall be appointed or circumstances shall arise which entitle the Court or debenture holders to appoint a receiver or manager; or

x) If the Contractor shall suffer an execution being levied on his goods and allow it to be continued for a period of 21 days; or

xi) If the Contractor assigns, transfers, sublets (engagement of labour on a piece-work basis or of the labour with materials not to be incorporated in the work, shall not be deemed to be subletting) or otherwise parts with or attempts to assign, transfer sublet or otherwise parts with the entire works or any portion thereof without and prior written approval of the Engineer-In-Charge.

When the Contractor has made himself liable for action under any of the clauses aforesaid, the Engineer-In-Charge may without prejudice to any other right or remedy which shall have accrued or shall accrue hereafter to EPI, by a notice in writing to cancel the contract as a whole or only such items of work in default from the Contract.
The Engineer-In-Charge shall on such cancellation by EPI have powers to:

a) Take possession of Site and any materials, Construction Plant & machinery, implements, stores, etc. thereon; and/or

b) Carry out the incomplete work by any means at the risk and cost of the Contractor; and/or

c) To determine or rescind the contract as aforesaid (of which termination or rescission notice in writing to the Contractor under the hand of the Engineer-In-Charge shall be conclusive evidence). Upon such determination or rescission the full Retention Money recovered by EPI under the contract and Security Deposit cum Performance Guarantee shall be liable to be forfeited and un-used materials, construction plant & machinery, implements, temporary buildings, etc. shall be taken over and shall be absolutely at the disposal of EPI. If any portion of the Retention Money has not been received or recovered by EPI from RA Bills, it would be called for and forfeited; and/or

d) To employ labour and to supply materials, equipment to carry out the work or any part of the work debiting the Contractor with the cost of the labour and the price of the materials, equipment rentals (of the amount of which cost and price certified by the Engineer-In-Charge shall be final and conclusive) against the Contractor and crediting him with the value of the work done in all respects in the same manner and at the same rates as if it had been carried out by the Contractor under the terms of his contract. The certificate of the Engineer-In-Charge as to the value of the work done shall be final and conclusive against the Contractor provided always that action under the sub-clause shall only be taken after giving notice in writing to the Contractor. Provided also that if the expenses incurred by the EPI are less than the amount payable to the Contractor at his agreement rates, the difference shall not be paid to the Contractor; and/or

e) After giving notice to the Contractor to measure up the work of the Contractor and to take such whole, or the balance or part thereof as shall be un-executed or delayed with reference to the General Conditions of Contract clause no. 1.4.1 and/or relevant clause of Additional Conditions of Contract, out of his hands and to give it to another Contractor to complete in which case any expenses which may be incurred in excess of the sum which would have been paid to the original Contractor if the whole work had been executed by him (of the amount of which excess the certificate in writing of the Engineer-In-Charge shall be final and conclusive) shall be borne and paid by the original Contractor and may be deducted from any money due to him by EPI under his contract or on any other account whatsoever or from his Retention Money, Security Deposit cum Performance Guarantee or the proceeds of sales of unused materials, construction plants & machinery, implements temporary buildings etc. thereof or a sufficient part thereof as the case may be. If the expenses incurred by EPI are less than the amount payable to the Contractor at his agreement rates, the difference shall not be paid to the Contractor; and/or

f) By a notice in writing to withdraw from the Contractor any items or items of work as the Engineer-In-Charge may determine in his absolute discretion and get the same executed at the risk and cost of the Contractor.
Any excess expenditure incurred or to be incurred by EPI in completing the works or part of the works or the excess loss or damages suffered or may be suffered by EPI as aforesaid after allowing such credit shall without prejudice to any other right or remedy available to EPI in law be recovered from any moneys due to the Contractor on any account, and if such moneys are not sufficient the Contractor shall be called upon in writing and shall be liable to pay the same within 30 days.

If the Contractor shall fail to pay the required sum within the aforesaid period of 30 days, the Engineer-In-Charge shall have the right to sell any or all of the Contractors unused materials, Construction Plant, machinery, implements, temporary buildings, etc. and apply the proceeds of sale thereof towards the satisfaction of any sums due from the Contractor under the contract and if thereafter there be any balance outstanding from the Contractor, it shall be recovered in accordance with the provisions of the contract and law.

Any sums in excess of the amounts due to EPI and unsold materials, Construction Plant etc. shall be returned to the Contractor, provided always that if cost or anticipated cost of completion by EPI of the works or part of the works is less than the amount which the Contractor would have been paid had he completed the works or part of the works, such benefit shall not accrue to the Contractor.

In the event of anyone or more of the above courses being adopted by the Engineer-In-Charge the Contractor shall have no claim to compensation whatsoever for any loss sustained by him by reasons of his having purchased or procured any materials or entered into any engagements or made any advances on account or with a view to the execution of the work or the performance of the contract. And in case action is taken under any of the provision aforesaid the Contractor shall not be entitled to recover or be paid any sum for any work thereof or actually performed under this contract unless and until the Engineer-In-Charge has certified in writing the performance of such work and the value payable in respect thereof and he shall only be entitled to be paid the value so certified. Provided further that if any of the recoveries to be made, while taking action as per (d) and/or (e) above, are in excess of the Retention Money & Security Deposit cum Performance Guarantee forfeited, these shall be limited to the amount by which the excess cost incurred by the EPI exceeds the Retention Money & Security Deposit cum Performance Guarantee so forfeited.

1.3 CONTRACTOR LIABLE TO PAY COMPENSATION EVEN IF ACTION NOT TAKEN

In any case in which any of the powers conferred upon the Engineer-In-Charge by relevant clause thereof, shall have become exercisable and the same are not exercised, the non-exercise thereof shall not constitute a waiver of any of the conditions hereof and such powers shall notwithstanding be exercisable in the event of any future case of default by the Contractor and the liability of the Contractor for compensation shall remain unaffected. In the event of the Engineer-In-Charge putting in force all or any of the powers vested in him under the preceding clause he may, if he so desires after giving a notice in writing to the Contractor, take possession of (or at the sole discretion of the Engineer-In-Charge which shall be final and binding on the Contractor) use as
on hire (the amount of the hire money being also in the final determination of the Engineer-In-Charge) all or any tools, plant, machinery, materials and stores, in or upon the works, or the site thereof belonging to the Contractor, or procured by the Contractor and intended to be used for the execution of the work / or any part thereof, paying or allowing for the same in account at the contract rates, or in the case of these not being applicable, at current market rates to be certified by the Engineer-In-Charge, whose certificate thereof shall be final, and binding on the Contractor and/or direct the Contractor, clerk of the works, foreman or other authorized agent to remove such tools, machinery, plant, materials, or stores from the premises (within a time to be specified in such notice) in the event of the Contractor failing to comply with any such requisition, the Engineer-In-Charge may remove them at the Contractor's expense or sell them by auction or private sale on account of the Contractor and his risk in all respects and the certificate of the Engineer-In-Charge as to the expenses of any such removal and the amount of the proceeds and expenses of any such sale shall be final and conclusive against the Contractor.

1.4 TIME ESSENCE OF CONTRACT & EXTENSION FOR DELAY

The time allowed for execution of the Works as specified in the terms of contract or the extended time in accordance with these conditions shall be the essence of the contract. The execution of the works shall commence from the 10th Day or such time period as mentioned in letter of Intent after the date on which the Engineer-In-Charge issues written orders to commence the work. If the Contractor commits default in commencing the execution of the work as aforesaid, the Executing Agency shall without prejudice to any other right or remedy available in law, be at liberty to forfeit the earnest money absolutely.

1.4.1 Within 10 (Ten) days of Letter of Intent, the Contractor shall submit a Time and Progress Chart (CPM/ PERT/ Quantified Bar Chart) and get it approved by the Engineer-In-Charge. The Chart shall be prepared in direct relation to the time stated in the contract documents for completion of items of the works. It shall indicate the forecast (milestones) of the dates of commencement and completion of various items, trades, sections of the work and may be amended as necessary by agreement between the Engineer-In-Charge and the Contractor within the limitations of time stipulated in the Contract documents, and further to ensure good progress during the execution of the work, the Contractor shall in all cases in which the time allowed for any work exceeds one month (save for special jobs for which a separate program has been agreed upon) complete 1/8th of the whole of work before 1/4th of the whole time allowed in the contract has elapsed, 3/8th of the work before one half of such time has elapsed and 3/4th of the work before 3/4th of such time has elapsed. The physical report including photographs shall be submitted by the Contractor on the prescribed format & the intervals (not exceeding a month) as decided by the Engineer in Charge. The compensation for delay as per clause 1.1 shall be leviable at intermediate stages also, in case the required progress is not achieved to meet the above time deadlines of the completion period and/ or milestones of time and progress chart, provided always that the total amount of Compensation for delay to be paid under this condition shall not exceed 10% (Ten Percent) of the tendered value of work".
1.4.2 If the work(s) be delayed by:

i) force-majeure or
ii) abnormally bad weather, or
iii) serious loss or damage by fire, or
iv) civil commotion of workmen, strike or lockout, affecting any or the trades employed on the work, or v) delay on the part of other Contractors or tradesmen engaged by Engineer-In-Charge in executing work not forming part of the Contract, or
vi) non-availability of stores, which are responsibility of EPI or,
vii) non-availability or break down of tools and plant to be supplied or supplied by EPI or,
viii) any other cause which, in the absolute discretion of EPI, is beyond the Contractor's control, then, upon the happening of any such event causing delay, the Contractor shall immediately give notice thereof in writing to the Engineer-In-Charge but shall nevertheless use constantly his best endeavors to prevent or make good the delay and shall do all that may be reasonably required to the satisfaction of the Engineer-In-Charge to proceed with the works.

1.4.3 Request for extension of time, to be eligible for consideration, shall be made by the Contractor in writing within fourteen days of the happening of the event causing delay on the prescribed form. The Contractor may also, if practicable, indicate in such a request the period for which extension is desired. In any such case EPI may give a fair and reasonable extension of time for completion of work. Such extension shall be communicated to the Contractor by the Engineer-In-Charge in writing, within 3 months of the date of receipt of such request. Non-application by the Contractor for extension of time shall not be a bar for giving a fair and reasonable extension by the Engineer-In-Charge and the extension of time so given by the Engineer-In-Charge shall be binding on the Contractor.