

Dear Sir

**Sub: Request for Proposal for Engagement of Foreign Consultant for marketing of HAL Do-228/Hindustan-228 in International Market.**

A. Hindustan Aeronautics Ltd. (HAL), is a designated Navratna PSU under Ministry of Defence, Govt of India. HAL is the prime supplier for a number of aerial platforms such as fighter aircraft, transport aircraft and helicopters of various categories for the defence forces (IAF, Indian Army, Indian Navy & Indian Coast Guard) as well as para military forces of the country. 80% of the footprint of aerial platforms in the Indian Air Force have been manufactured in HAL. HAL also has significant contribution in the defence exports of the country through presence of its fixed wing and rotary wing platforms overseas in many countries.

B. Transport Aircraft Division (TAD) of HAL located at Kanpur, Uttar Pradesh, India is the manufacturer of fixed-wing 19 seater Do-228/Hindustan-228 aircraft. The aircraft have been extensively utilized in past by M/s Vayudoot and erstwhile M/s Indian Airlines respectively, for providing regional air connectivity in the country. HAL is also foraying into development of an amphibian/seaplane version of Do-228 aircraft, which can be aptly utilized as seaplanes across the country in both defence and civil aviation sectors.

C. TAD Kanpur has produced more than 155 aircraft so far, with majority of aircraft supplied to Indian defence customers in Maritime surveillance and Utility role. Transport Aircraft Research & Design Center (TARDC) has also acquired considerable expertise in undertaking major modifications and in-house upgrades on the aircraft. TAD Kanpur has also supplied the aircraft to Friendly Foreign Countries (FFCs) like Mauritius and Seychelles.

D. It has been assessed that HAL Do-228 aircraft has significant potential for export.

E. HAL initiated launch of Hindustan-228 aircraft with Type Certification from DGCA, India. Type Certificate of Hindustan-228 has been granted to HAL by DGCA, India subsequent to which HAL has initiated discussions for EASA/FAA certification.

F. Notwithstanding the EASA/FAA Type Certification activities as brought out above, HAL is exploring acceptance of Hindustan-228 in the world market with Type Certificate issued by DGCA, India.

G. HAL's mission is to emerge as a major force seeking entry into the global market while supporting India's defence requirement in a significant way. To expand its overseas presence and to manage the international business, HAL offers opportunity to the Foreign Marketing Consultants of various countries, with knowledge of the market and who can interact with the decision makers, to represent HAL effectively for business generation and growth globally.

H. Offers are invited from interested Foreign Marketing Consultancies in two bid system for selection as Foreign Marketing consultant. Companies having their registered offices other than in India are only considered for engagement as Foreign Marketing Consultant and all such transactions need to be made in their respective country where their registered offices are situated. The Foreign Marketing Consultant can be based in any country other than India.

- G. This RFP is divided into six Sections as follows:
- a. **Section 1** – Scope of Work with technical bid compliance matrix(Annexure-1)
  - b. **Section 2** – Commercial Terms and Conditions
  - c. **Section 3** –List of Documents required to be submitted by the bidder
  - d. **Section 4** –Evaluation Parameters and Evaluation Methodology
  - e. **Section 5** –Instructions for the Bidders regarding submission of quotation and General instructions
  - f. **Section 6** –Format for Non-Disclosure Agreement.
  - g. **Section 7** – Other commercial terms and conditions of RFP.

**Scope of Work:**

1. The broad scope of work is as follows:
  - a) Use his best endeavors to promote sales and build up market for the Products as per schedule 'A', by contacting all potential purchasers and work diligently to secure their orders.
  - b) The Foreign Marketing Consultant shall share the marketing plans and procedures in this regard to HAL.
  - c) To provide following information to HAL as & when sought:
    - i. The current market scenario
    - ii. Market Demand Forecast / Requirement
    - iii. Competition & Market levels
    - iv. Local information relevant thereto
    - v. Technical specification requirements of Customers
    - vi. Local laws, ordinances, regulations, applicable rules, taxes and procedures
    - vii. Documentation issued by the Customers, Government, Ministries, Consultants and other bodies relating thereto.
    - viii. Any other information relating to the matters related/ connected with the resultant Consultancy Agreement.
  - d) Not to buy, sell or negotiate for the sale of similar Products or take Consultancy or otherwise assist in the sale of similar Products of any other manufacturers.
  - e) Not accept orders or make contracts on behalf of HAL except with previous written concurrence of HAL or entertain orders except according to the conditions of sale for the time being prescribed by HAL and not make any promises, representations, warranties or guarantees with reference to the Product, except according to the handouts sent out by HAL.
  - f) Adopt fair practice and take full responsibility for all things done and all representations and warranties made which are not expressly authorized by HAL in writing and to indemnify and keep harmless HAL from any loss, claim, demand or action taken by anyone, directly or indirectly, in consequence thereof.
  - g) Not quote the price of the product at any sum other than that for the time being fixed by HAL, without the prior written consent of HAL.
  - h) In all correspondence and other dealings relating directly or indirectly to the sale of the products, clearly indicate that they are acting only as Marketing Consultants of HAL.
  - i) The Foreign Marketing Consultant shall submit written report to HAL on the activities undertaken under the Agreement and the sales occurred.
  - j) Assist the visiting HAL delegations in regard to discussions and negotiations with the authorities and for arranging presentations and demonstrations.
  - k) Depute, at their own cost, representatives to India to attend Marketing Consultants' Conference / review meeting which may be convened by HAL as and when required. Alternatively, Foreign Marketing Consultant or representative can join through electronics means.
  - l) Utilize only such technical information as is provided or approved by HAL in making representations concerning the Products to prospective purchasers thereof.

2. It is hereby made clear that nothing herein contained confers any authority on the Foreign Marketing Consultant to enter into any contracts or commitments by or on behalf of HAL in any matter, unless agreed in writing.
3. All orders for HAL's products shall be subjected to acceptance and confirmation in writing by HAL and as per its own terms & conditions and subject to the grant of requisite permission by Government of India, wherever required.
4. The Foreign Marketing Consultant can only collect orders from intending buyers and forward them to HAL for their consideration.

**Section - 2****Commercial Terms and Conditions:**

**1. Validity:** The resultant Consultancy Agreement shall be in force for a period of one year from that date of signing of the Agreement. The tenure for consultancy may be extended for a period of one more year on the basis of satisfactory performance of first year, on same terms and conditions. Decision of HAL will be firm and binding in this regards. The validity of Agreement shall, however, be subject to the provisions contained in Clause 2 of this tender in the matter of termination by notice, in writing.

**2. Termination by Notice:**

2.1 Either party may, at any time, terminate the resultant Consultancy Agreement by giving thirty (30) days written notice to the other. It shall not be necessary to assign cause for such termination.

**3. Foreign Marketing Consultant's Remuneration:**

3.1 In consideration of the services to be rendered by the Foreign Marketing Consultant in accordance with the resultant Consultancy Agreement, HAL shall pay the remuneration as mutually agreed by HAL and the Foreign Marketing Consultant on the products indicated in Schedule - A. HAL will review the report submitted by the Foreign Marketing Consultant before release of remunerations which will be released on bi-monthly basis. The Foreign Marketing Consultant is not entitled for any consideration in any form other than the remuneration.

3.2 The currency of payment shall generally be the US Dollars, unless specifically mentioned by HAL.

3.3 The remuneration shall be inclusive of all incidentals and expenses incurred by the Marketing Consultant. All taxes outside India relating to Consultancy remuneration shall be borne by the Foreign Marketing Consultant only. No other cost/ re-imbursement shall be payable to the Foreign Marketing Consultant other than the mutually agreed remuneration.

3.4 The Foreign Marketing consultant will produce the following evidentiary documents for processing of the remuneration amount.

- a. At least three joint meetings (Virtual/Physical) bi-monthly\* with prospective customers. Detail aide-memoir/ MoM needs to be prepared and submitted by firm.
- b. At least one physical visit bi-monthly to prospective customer / visit to customer base with engagement of HAL team (virtual/physical). Detail visit report needs to be prepared and submitted by firm.
- c. At least one Letter of Intent (LoI) bi-monthly, from fourth month onwards, from a scheduled operator/ non-scheduled operator / reputed business firm.
- d. Bi-monthly report on the business development activities comprising of following:
  - i. Market intelligence: Market forecast, new leads identified, Credentials of prospective customers, Prospective Market for Upgrades/ Modifications etc.
  - ii. Marketing strategy to convert leads
  - iii. Recommendations on Product, Price, promotions, etc.
  - iv. Plan of marketing in next two month

(\* bi-monthly : in period of two months)

**4. Payment of Remuneration:**

- 4.1 Payment: : The payments will be made bi-monthly after successful completion of following task and certification by Officer in Charge designated by HAL:
- At least three joint meetings (Virtual/Physical) bi-monthly\* with prospective customers. Detail aide-memoir/ MoM needs to be prepared and submitted by firm.
  - At least one visit of customer to HAL/ visit to customer base bi-monthly with engagement of HAL team. Detail visit report needs to be prepared and submitted by firm.
  - At least one LoI, bi-monthly, from fourth month onwards, from a scheduled operator/ non-scheduled operator / reputed business firm.
  - Bi-monthly report on the business development activities comprising of following:
    - Market intelligence: Market forecast, new leads identified, Credentials of prospective customers, Prospective Market for Upgrades/ Modifications etc.
    - Marketing strategy to convert leads
    - Recommendations on Product, Price, promotions, etc.
    - Plan of marketing in next two month
- 4.2 Payment shall be made to the Bidder after satisfactorily completion as per scope of work defined at para 4.1 (a) to (d) and duly certified by Officer in Charge designated by HAL.
- 4.3 Upon expiration of the resultant Consultancy Agreement pursuant to Clause 1 or termination pursuant to Clause 2 of resultant Agreement, the obligation of the parties shall cease.
- 4.4 Pending payment, pertaining to the completed consultancy period will be paid, even after expiration of consultancy agreement.
- 4.5 The payment shall be made only through Electronic Fund Transfer mode.
- 4.6 The bidders / Bidder has to accept payment electronically by providing Bank Name, Bank Account Number, SWIFT Code, IBAN Number etc to HAL for funds transfer.

**5. Return of HAL's Property:** Upon either expiration or termination of the resultant Consultancy Agreement, the Foreign Marketing Consultant will execute such documents as may, in the opinion of HAL, be required to transfer to HAL any and all rights, title or interest which the Foreign Marketing Consultant may have acquired by virtue of the resultant Consultancy Agreement or otherwise in any samples, patterns or other proprietary interest, now or hereinafter owned or used by HAL.

**6. Not to Assign Clause:** The resultant Consultancy Agreement and any rights, benefits or obligations hereunder shall not be transferred or assigned to or encumbered in any manner by the Foreign Marketing Consultant without the prior written consent of HAL.

**7. Collection of Indebtedness:** HAL reserves the right to:

- Apply towards the payment of any amount due to HAL from the Foreign Marketing Consultant, and
- Deduct any amounts owed by the Foreign Marketing Consultant to HAL from any amounts owned by HAL to the Foreign Marketing Consultant.

**8. Service of Notice:** Any notice required to be given by either party to the other hereunder or in connection herewith shall be in writing and delivered personally or by registered mail. Notices to the Foreign Marketing Consultant shall be directed to the Marketing Consultant's place

of business in their registered Head Office. Notice to HAL shall be directed to Hindustan Aeronautics Limited, Post Chakeri , Kanpur - 208008, India.

While submitting quotation, the bidder is required to provide their contact details for servicing notice by HAL. The details should be provided on bidder's letter head.

**9. Law Applicable:** The resultant Consultancy Agreement shall be governed in all aspects in accordance with the Laws of India. The jurisdiction of the courts shall be Kanpur, India.

**10. Arbitration:** Any dispute or difference whatsoever arising between the parties out of or relating to the construction, meaning, scope, operation or effect of the resultant Consultancy Agreement or the validity or the breach thereof shall be attended by the representatives designated by the parties. If the dispute or difference is not resolved within two months from the date of scheduled mandatory meeting stated hereinabove, the same shall be settled by arbitration in accordance with the Rules of International Commercial Arbitration of the Indian Council of Arbitration, by a single arbitrator and the award made in pursuance thereof shall be binding on the parties.

The seat of arbitration shall be Kanpur, India. The proceedings shall be conducted in English Language. During pendency of the arbitration proceedings, the parties shall continue to perform their obligations under the resultant Consultancy Agreement.

**11. Severability:** If any provision of the resultant Consultancy Agreement is declared invalid or unenforceable, the resultant Consultancy Agreement shall be considered divisible as to such provision and the remaining provisions of the Agreement shall be valid and binding.

**12. Variation of Resultant Agreement:** It is agreed by the parties to the resultant Consultancy Agreement that amendments, alterations or modifications to the resultant Consultancy Agreement shall be permitted; but no such amendment, alteration or modification shall be valid unless executed in writing and signed by both the Foreign Marketing Consultant and HAL.

**13. General:**

13.1 With successful bidder, the Agreement will be executed in two copies, each of which constitutes as original.

13.2 Subject to the provisions of Clause 6 above, the resultant Agreement shall bind the successors and assignees of the parties hereto.

**14. Non-Exclusive:** The Foreign Marketing Consultant rights granted hereunder are on "non-exclusive" basis and they do not preclude HAL from appointing any other Foreign Marketing Consultant in the same territory if the need for the same arises.

**15. Agreements between Governments:** The terms & conditions of the resultant Consultancy Agreement shall not apply to the products and services which are directly dealt with or negotiated at Government level.

**16. Confidentiality:** Both parties recognize that during the existence of the resultant Consultancy Agreement, it may be necessary for either party to disclose sensitive commercial and technical information that might be confidential in nature with the other party. The disclosure and use of such confidential information shall be protected under the terms and conditions of Non-Disclosure Agreement. The Non-Disclosure Agreement will be signed by both the parties along with the resultant Consultancy Agreement. NDA format is enclosed at Section - 6 of this tender document.

**17. Trademarks:** During the term of the resultant Consultancy Agreement and for the purpose of carrying out obligations under the resultant Consultancy Agreement, the Foreign Marketing Consultant shall have the right to advertise HAL's Products, within the territory as an authorized Foreign Marketing Consultant of HAL, under the trademarks that HAL may adopt from time to time ("HAL's Trademarks"). Nothing herein shall grant Foreign Marketing Consultant any right, title, or interest in HAL's Trademarks. At no time during the term of the resultant Consultancy Agreement or at any time thereafter shall Foreign Marketing Consultant challenge or assist others in challenging HAL's Trademarks or the registration thereof or attempt to register any trademarks confusingly similar to those of HAL.

All presentation of HAL's Trademarks that Foreign Marketing Consultant intends to use shall first be submitted to the HAL for written approval.

**18. Liquidated Damage:-**

Foreign Marketing Consultant is required to perform the activities in accordance to Para 3.4 of the RFP. If Foreign Marketing Consultant fails to deliver the task as per Para 3.4 of RFP, a Liquidated Damage (LD) of 0.5% per week will be applicable, starting from the second week of ensuing month, for a maximum of 10%. LD will be applicable, if Consultant could not perform any of the activities mentioned at Para 3.4 of RFP.

**19. Force Majeure:**

19.1 If in performance of the resultant Consultancy Agreement, HAL is prevented, restricted or interfered with by reason of a case of excusable delay as defined below, such a failure to perform shall not be regarded as a breach of this Agreement.

For the purpose of the resultant Consultancy Agreement a case of excusable delay shall be defined as any event whether predictable or not, which is beyond the reasonable control of HAL and whose effects could prevent HAL wholly or in part from fulfilling its obligations in accordance with the resultant Consultancy Agreement such cases of excusable delay shall be deemed to comprise, but shall not be limited to:

- a) Fire, explosion, breakdown of plant, failure of machinery, strike, lockout, labour dispute, casualty or accident, riots, natural calamity, pandemic, lack of failure in whole in part of sources of supply in particular concerning the HAL, its Sub-Authorised Representative or supplier; or
- b) Any law, order, proclamation or ordinance of the Government of India or war, revolution, civil commotion, acts of public enemies or terrorists, blockage or embargo; or
- c) Any other acts, whatsoever whether similar or dissimilar to those above enumerated, beyond the reasonable control of the parties.
- d) The above list to be considered indicative and not limitative.

19.2 In case of occurrence of any of the events constituting the 'Force Majeure', HAL shall give prompt notice within 30 days of the occurrence and cessation of such events to the Foreign Marketing Consultant. The time for delivery shall be extended by a period not more than the duration of such event. But where the incident of the force majeure exceeds a period of 90 days the parties shall hold consultation with each other with regard to the appropriate steps to be taken in the future implementation of the Agreement.

19.3 In the event of any total or partial ban/ restrain imposed by the Government of India with regard to export of the material spares in relation to areas / countries, sources, Consultancies and



organisations quality, quantity and period of export of any reason whatsoever whether statutory or otherwise, or as a result of a policy decision export being prevented on account of any force majeure circumstances beyond HAL's control, HAL shall be entitled to cancel Agreement in whole or part or partially suspend it without being in any manner liable for such cancellation or suspension.

**20. Fair Practice:** The Foreign Marketing Consultant shall adhere to fair practices. The Foreign Marketing Consultant under no circumstances shall indulge in any unfair or corrupt practices while dealing with HAL and prospective buyers.

**21. Exit Clause:**

The contract/order may be terminated under the following circumstances:

i. In the event of unsatisfactory performance by the Foreign Marketing Consultant during the contract period, or any of the information provided by the Foreign Marketing Consultant is found to be untrue, or Foreign Marketing Consultant is found to have attempted to influence any person involved with the contract through unethical means, the contract shall be terminated with ----- month's advance notice without any financial implication to HAL. Notwithstanding the foregoing, in cases where it is found that Foreign Marketing Consultant is engaged in unethical practices, they shall be barred from participating in the future contracts for a period of \_\_ years.

ii. If there is change in HAL's requirement, contract shall be terminated with ----- months advance notice. The liability of HAL in this case will be agreed mutually. In the event of termination of contract by either party the Foreign Marketing Consultant shall ensure the following:

a) IPR's are transferred to HAL to enable HAL to proceed on the work with other Foreign Marketing Consultant. Foreign Marketing Consultant also will render all assistance till the other Foreign Marketing Consultant fully take over the balance work.

b) Transfer title and deliver all or any part thereof of the supplies, materials, work-in-progress, finished Products, Tooling, drawings and data produced or acquired by Foreign Marketing Consultant specifically for the Product being terminated.

c) Supply of products and its components / spares at least for a period of \_\_ years from the date of such termination.

**22. Warranty & Representation:** The Foreign Marketing Consultant represents and warrants that it has neither indulged into corrupt, unfair practices in the past and nor been prosecuted under applicable law for such practices in the past. The Foreign Marketing Consultant further represents and warrants it has all necessary permissions, licenses, documents etc. to carry out activities as envisaged under the resultant Consultancy Agreement.

**23. Waiver:** The failure of the either party, at any time, to require performance and/or enforcement of any provision of the resultant Consultancy Agreement shall not be construed as a waiver of the requiring party of its rights under the resultant Consultancy Agreement, nor shall the failure of the requiring party to take action affect its rights, at some later date, to enforce these rights under the resultant Consultancy Agreement for breach of any of the provisions of the resultant Consultancy Agreement.

**24. Headings:** The headings of clauses contained herein are used for convenience and ease of reference and shall not affect in any way the meaning or interpretation of the resultant Consultancy Agreement.

**25. Entire Agreement:** The resultant Consultancy Agreement constitutes the entire Agreement among the parties relating to the subject matter hereof and supersedes and cancels any and all previous declarations, negotiations, commitments, communications, approvals, agreements and confidentiality agreements, either oral or written, between the parties in respect thereto.

**26. Survival:** The following clauses shall survive any expiration and or termination of this Agreement:

- i. Confidentiality,
- ii. Waiver,
- iii. Survival,
- iv. Arbitration,
- v. Law Applicable

Any provision of the resultant Consultancy Agreement, which expressly or by implications from its nature is intended to survive the termination or expiration of the resultant Consultancy Agreement and any right arising on termination or expiration, shall survive.

**27. Relationship of Parties:** It is understood that each party is an independent party and that all persons engaged in work under the Agreement of either party shall in no sense be employees of the other party.

**28. Indemnities:** Parties will indemnify each other in respect of any costs, claim or liabilities whatsoever arising from death or injuries to employees of one party caused due to negligent acts or omissions to the employees of the other party in connection with the Agreement.

**29. Immunity to Government of India:** It is understood and agreed that the Government of India is not a party to the resultant Consultancy Agreement and has no liabilities, obligations or rights hereunder. It is expressly understood and agreed that HAL is an independent legal entity with power and authority to enter into contracts solely in its own behalf under the applicable Laws of India and General Principles of Contract Law. The Foreign Marketing Consultant shall agree, acknowledge and understand that HAL is not a Consultant, representative or delegate of the Government of India. It is further understood and agreed that the Government of India is not and shall not be liable for any acts, omissions, commissions, breaches or other wrongs arising out of the resultant Agreement. Accordingly, Foreign Marketing Consultant expressly waives, releases and foregoes any and all actions or claims against the Government of India arising out of the resultant Consultancy Agreement, not to sue the Government of India as to any manner, claim, cause of action or thing whatsoever arising out of or under the resultant Consultancy Agreement.

The Foreign Marketing Consultant further understands and agrees that he will not approach Government of India of any political parties of India, either directly or through any means, against the decision of HAL.

**30. Bribes and Gifts:** Any bribe, commission, gift or advantage given, promised or offered by or on behalf of the Foreign Marketing Consultant or any one on his or their behalf to any employee, servant, representative or Consultant 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 Foreign Marketing Consultant may incur, subject the Foreign Marketing Consultant to the cancellation of the Agreement with HAL and also for payment of any loss or damage resulting any such cancellation 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.

**31.** Any bidder quoting against this enquiry shall be deemed to have read and understood these terms and conditions fully. The offer shall be deemed to be an admission on the part of bidder that

they have fully acquainted themselves with the details and no claim on his part, which may arise on account of non-examination or insufficient examination of the conditions of the Tender will, in any circumstances, be considered.

## Schedule - A

## Products of Transport Aircraft Division, Kanpur

Sl. No.	Category of HAL's Products and Services
1.	<p><b><u>PLATFORMS:</u></b>  Commuter/ Utility Aircraft/VIP Version/Ambulance/Amphibian versions/Maritime Reconnaissance Version of Do-228 / Hindustan-228</p>
2.	<p><b><u>SPARES/ COMPONENTS:</u></b>  Spares for Aircraft mentioned at Sl. No. 1 above.</p> <p>All Spares/Components of Military and Civil Do 228 / Hindustan 228 aircraft.</p>
3.	<p><b><u>SERVICES:</u></b>  Services including:</p> <p>Repair, Overhaul and Servicing of Military and Civil Do 228 / Hindustan 228 aircraft.  Avionics upgrade, Mid-life upgrade and installation of Glass cockpit on Military and Civil Do 228 / Hindustan 228 aircraft.  Training of Technical personnel for Military and Civil Do 228 / Hindustan 228 aircraft.</p>

## Section - 3

**List of Documents to be Submitted by the Bidder:**

1. Following documents / information will be collected from the prospective bidder:
  - a. Attested copy of the Certificate of Registration, Memorandum of Association and Articles of Association of the organization with the appropriate authority.
  - b. Latest Income Tax Clearance Certificate (Original or attested copy)
  - c. Office address proof.
  - d. Original Power of Attorney for the person to sign the Consultancy agreement
  - e. Products handled / nature of business, details of past experience in handling aviation product and services etc.: Copy of Purchase orders/ work orders/ Work completion certificate/ Self certification on non-judicial bond paper.
  - f. List of customer references / Customer Information
2. Financial information about the Company: Audited balance sheets, financial statements annual report of the company as well as parents' company submitted to Registrar of Companies preferably for last three years.
3. Confirmation from the bidder on their Letter Head that
  - a. They shall adhere to the laws of the country of prospective business besides the laws of the country governing the Consultancy agreement.
  - b. They have not been blacklisted/ banned by HAL or any other Country
  - c. There is no conflict of interest with the business of HAL
4. Whether the Country of Prospective business has laws/ guidelines prohibiting appointment of Consultants (Consultant to submit certificate from legal firm of that country).
5. Following information is to be provided by the bidder while submitting the bid
  - a. Name and e-mail ID
  - b. Contact No.
  - c. Address in home country
  - d. Certificate of being resident in the home country, if any
  - e. Tax Identification Number (TIN) or any unique number in the home country
6. a) EMD for a value of **2190 USD** to be submitted in the form of DD/ Banker's Cheque/ Pay Order/ Bank Guarantee of Scheduled Bank (to be specified). EMD should be valid for 28 days beyond the validity of the bid. EMD can be sent through SWIFT/ Wire Transfer to HAL Account (Bank details attached at **Annexure-2** to be indicated).  
**b) Offers not accompanied with requisite amount of EMD or EMD not submitted in the specified form in original shall be summarily rejected.**

## Section - 4

**Evaluation Parameters & Evaluation Methodology:****A. Technical Evaluation:**

1. Bidder should fill up the following Evaluation Parameter Matrix:

Sl No	Capability to be evaluated	Evaluation Criteria	Max Marks	Bidders Compliance (Tick applicable )	Supporting Documentary Proof (Appropriate docs to be provided)
1.	Organization standing	10 years and above	20		Certificate of Registration, Memorandum of Association and Articles of Association, Audited balance sheets, financial statements annual report of the company as well as parents' company submitted to Registrar of Companies preferably for last three years.
		Less than 10 years and more than 5 years	15		
		Less than 5 years but minimum two years	10		
2	Experience (in years) of Firm /Lead Staff in Aviation Domain	15 years or more	30		Relevant Experience documents/ Certificates
		Less than 15 years more than 10 years	20		
		Less than 10 years more than 5 years	15		
		Less than 5 Years	10		
3.	Experience (in years) of Firm /team leader in project management / product support/ marketing of Do-228 aircraft	More than 5 years	50		Relevant Experience documents/ Certificates
		Less than 5 years more than 3 years	30		
		Less than 3 years & minimum 1 year	20		
		<b>Total</b>	100		

2. In order to qualify technically, a proposal must secure a minimum score of 80 after summing up and only those proposals which have a minimum score of 80 would be shortlisted for verification of credentials.

3. After the verification of credentials, Commercial bids of qualified bidders will be opened for evaluation.

**B. Commercial Evaluation:**

1. Bidder should indicate the expected remuneration (in USD)

Sl. No.	Annual Remuneration quoted by the bidder	Applicable tax	Total with Tax ( in USD)
1.			

2. The bidder with the lowest commercial Value will be treated as L1 bidder, bidder with next lower commercial score will be L2 bidder and so on. In case of a tie between two or more bidders, the bidder with a higher technical score would be ranked higher. In case any bidder fails to indicate expected remuneration above, his bid will not be considered for further commercial evaluation.

**Note:- Above commercial bid to be provide in price bid only. The filled price bid not to be provided with technical bid. In case price details found in commercial bid, the offer will be rejected.**

## Section - 5

**Instructions for the Bidders regarding Submission of Quotation and General Instructions related to RFP:**

1. The participating bidders will have to submit the technical and commercial proposals/offers in separate sealed envelopes duly super-scribed with **PART - 1: TECHNICAL BID** and **PART - 2: PRICE BID** and these two envelopes shall in turn be kept in a sealed outer envelope. This outer envelopes and two inner envelopes shall be super-scribed with the subject **“Tender for Engagement of Foreign Consultant for marketing of HAL Do-228/Hindustan-228 in International Market Due on ..... Hrs IST of ..... 2022”** along with the Tender No. as Reference Number.

**Part - 1 : Technical Bid**

Technical Bid should contain the followings:

- i. **Annexure – 1** : Bidder's Compliance for acceptance of Scope of Work of tender in attached compliance matrix formate.
- ii. **Annexure – 2** : Bidder's Compliance for List of Documents to be submitted.
- iii. **Annexure – 3** : Bidder's Compliance for Evaluation Parameter Matrix as applicable to the bidder based on their experience, performance etc as indicated.
- iv. **Annexure – 4** : Bidder's Compliance on acceptance of Tender Terms & Conditions.
- v. **Annexure –5** : Bidder's Compliance on acceptance of other Tender Terms & Conditions(as per section 7)
- vi. Attested copy of documents as per Section - 3 of this RFP.
- vii. Attested copy of supportive documents for respective parameters of Technical Evaluation Matrix.
- viii. Bidder should also provide the complete details of their contact person who can be addressed to regarding any query/ clarification required by HAL during the tendering stage i.e. related to quotation submitted by the bidder.

**Part - 2****i. Annexure-5 : Price Bid**

Following are to be submitted as Price Bid.

Submission of Tender:

Response to bid through e-Procurement should be uploaded in the e-portal only through valid DSC-III.

**2. Late Tender:**

- a. Bid received after the due date and time specified in the tender shall be considered as late tender and will not be considered.
- b. HAL will not be responsible for loss or delay in receipt of tender documents / tender in transit.
- c. HAL will not be responsible for inability of vendor to upload the tender documents in e-procurement.
- d. HAL reserves the right to reject late or incomplete tender.

**3. Opening of Tender:**

Tender will be opened on the due date & time as given at the beginning of the enquiry. Bidders or their authorized reps. desirous to attend the tender opening may forward written confirmation with name of authorized person and designation prior to tender opening. During tender opening only the important particulars like price, delivery terms will be read out in single bid system.



4. **Offer Acceptance:** HAL is not bound to accept any bidder's bid and can reject the bid without assigning any reason(s) thereof.
5. HAL will not entertain / accept any supplementary documents/ letters from bidders after the due date as a part of bid unless otherwise requested by HAL.
6. The offer should contain the name of the firm, postal address, contact no. and the name of contact person.
7. HAL is under no obligation to pay any cost incurred of whatsoever nature, including for the preparation or submission of any response from bidder for submission of technical / commercial proposals, documents etc.
8. Quotation should be as per HAL prescribed format only as attached in Annexure of this Tender document (both Technical Bid and Price Bid).
9. Incomplete/ late tenders shall not be considered and liable for rejection. HAL will not be responsible for any transit/postal delay/loss.
10. Canvassing in any manner, including unsolicited letters/ references before or after submission of offer, or post proposal corrections, shall render offers liable for rejection.

## Section-6.

**Format of Non-Disclosure Agreement****NON-DISCLOSURE AGREEMENT**

This "Agreement" is made and entered into as of the last date of execution hereof by and between: \_\_\_\_\_, Company registered in \_\_\_\_\_ having Registered Office at \_\_\_\_\_, hereinafter referred to as "\_\_\_\_\_".

And

Hindustan Aeronautics Limited, an Indian Company registered under Companies Act, 1956, having its Registered Office at 15/1 Cubbon Road, Bangalore 560 001, India, hereinafter referred to as "HAL".

\_\_\_\_\_ and HAL shall hereinafter be individually referred to as "Party" or collectively as the "Parties", as the context may require.

**WHEREAS:**

- I. HAL, a premier and leading aerospace company in South Asia is involved in design, development, manufacture, supply and maintenance in various fields including aircraft, helicopters, aerospace equipment, engines and accessories
- II. \_\_\_\_\_ is a \_\_\_\_\_ involved in \_\_\_\_\_ (description of operations of \_\_\_\_\_)

**NOW, THEREFORE THE PARTIES AGREE AS FOLLOWS:****1. DEFINITIONS**

- 1.1 **"Agreement"** means this Non-Disclosure Agreement.
- 1.2 **"Confidential Information"** means information which is not generally known to the public, and includes, but is not limited to information that is Proprietary to the Disclosing Party, whether in tangible or intangible form, whenever and however disclosed, including, but not limited to:
  - a) any scientific or technical information, invention, design, process, procedure, formula, improvement, technology or method;
  - b) any strategies, plans, financial information, or projections, operations, sales estimates, business plans and performance results relating to the past, present or future business activities of such party, its affiliates, subsidiaries and affiliated companies;
  - c) plans for products or services, and customer or supplier lists;
  - d) any concepts, reports, data, know-how, works-in-progress, designs, logos, trademarks, service marks, development tools, specifications, computer software, source code, object code, flow charts, databases, inventions, information and trade secrets;
  - e) commercial, technical, geographical and legal information, details of contracts, information regarding government approvals and licenses required for the business operations and any related data pertaining to the Company or its affiliates or Customers given to the Receiving Party
  - f) Copies, abstracts or any other form of partial or full reproduction of Confidential Information.

g) any confidential information provided by third parties;

**PROVIDED** Confidential Information need not be novel, unique, patentable, and copyrightable or constitute a trade secret in order to be designated as Confidential Information.

- 1.3 **"Disclosing Party"** means that Party which directly or indirectly provides or makes available Confidential Information to the other in connection with this Agreement.
- 1.4 **"Effective Date"** shall mean the date of the last signature appearing herein.
- 1.5 **"Purpose"** shall mean the description given in Article 2
- 1.6 **"Receiving Party"** means that Party which receives or obtains Confidential Information directly or indirectly from the Disclosing Party in connection with this Agreement.

## 2. PURPOSE

The purpose of this Agreement is to set forth the rights and obligations of the Parties with respect to the use, handling, protection and safeguarding of Confidential Information which is disclosed by and between the Parties regarding exploring the possibility of potential business cooperation between the parties relating to sale of HAL manufactured exportable Aircraft platforms and its associated equipment (the **"Purpose"**).

## 3. PROCEDURE FOR DISCLOSURE

- 3.1 When disclosed in writing, on magnetic, optical or any other type of media, Confidential Information will be clearly and conspicuously stamped and or /marked by the Disclosing Party as Confidential and/or Proprietary Information.
- 3.2 When disclosed orally, Confidential Information will be identified as Confidential Information at the time of oral disclosure and summarized in writing or other tangible form which will be delivered no later than 30 calendar days after the oral communication. The summary will be appropriately marked confidential in accordance with Article 3.1. During the thirty (30) days period, such information shall be protected as Confidential Information.
- 3.3 In the event that the Disclosing Party inadvertently or accidentally fails to identify information or data disclosed to the Receiving Party as being Confidential Information in accordance with above provisions, the Disclosing Party may correct such inadvertence or accident by notifying the Receiving Party in writing within thirty (30) days after the discovery thereof, provided that Receiving Party shall have no liability with regard to any disclosure or uses of the unidentified or unmarked Confidential Information which occurred prior to the receipt of such notification.

## 4. OBLIGATIONS OF THE RECEIVING PARTY:

The Receiving Party shall have the following obligations with respect to Confidential Information:

- 4.1 To maintain confidentiality of such information and to store and protect the confidentiality of the Confidential Information by the use of, at least, the same degree of care that each Party uses to protect its own Confidential Information, and in any event not less than a reasonable standard of care and to retain and not to remove any Confidential Information stamps or marking appearing on such Confidential Information.
- 4.2 Not to use such Confidential Information, in whole or in part, for another Purpose than that specified in this Agreement, unless such use is specifically authorised in writing by the Disclosing Party;
- 4.3 Not to disclose such Confidential Information to any persons employed in its Company other than those having a 'need to know' for the Purposes for which disclosure is made under this Agreement. In this regard, the Receiving Party will be responsible for ensuring that the obligations of confidentiality and non use contained herein are observed by its employees;

- 4.4 Not to disclose Confidential Information to any third party without the prior written consent of the Disclosing Party and then only on the understanding that such third party is made aware of and undertakes to observe the provisions of this Agreement;

**5. EXCEPTIONS TO OBLIGATIONS OF THE RECEIVING PARTY**

The obligations with respect to handling of Confidential Information set forth in this Agreement are not applicable to any information which:

- 5.1 Prior to its disclosure by the Disclosing Party to the Receiving Party, was already known to the Receiving Party provided that immediately upon the disclosure by the Disclosing Party, the Receiving Party will bring such fact to the attention of the Disclosing Party; or
- 5.2 Is at the time of disclosure in the public domain or which comes into public domain in each case, where the publication making such information public domain is not the result of breach of this Agreement; or
- 5.3 Is legally received from a third party where the Receiving Party has no reasonable cause to believe that the receipt or the disclosure of such information by such third party was the result of or constitutes a breach of any duty or obligation towards the Disclosing Party; or
- 5.4 Is or has been independently developed by employees, consultants or Consultants of the Receiving Party without violation of the terms of this Agreement or reference or access to any Confidential Information; or
- 5.5 Has been approved for release or use (in either case without restriction) by written authorization of the Disclosing Party; or
- 5.6 Is required to be disclosed by any law, order or demand of a court of competent jurisdiction or government, the Receiving Party shall promptly and to the extent possible before making such disclosure notify the Disclosing party of such order/demand and provide reasonable assistance to prevent such disclosure. Nevertheless Confidential Information disclosed pursuant to this disclosure shall otherwise continue to be Confidential Information protected in accordance with all provisions of this Agreement.

If any portion of the Confidential Information falls within any one of the above exceptions, the remainder shall continue to be subject to the restrictions of this Agreement.

**6. BURDEN OF PROOF**

- 6.1 The burden of proof that Confidential Information which is disclosed falls within one of the exceptions set forth in Article 5 above, shall be on the Receiving Party.
- 6.2 The Receiving Party shall maintain the confidentiality of the Confidential Information until the Receiving Party has by clear and convincing evidence demonstrated to the Disclosing Party the validity of the aforesaid exceptions.
- 6.3 In the event of a dispute between the Parties regarding the applicability of one of the exceptions set forth in Article 5 above, the Receiving Party shall maintain the confidentiality of the Confidential Information until a final and non-appealable award and/or non-appealable court order/judgment is granted.

**7. OWNERSHIP OF CONFIDENTIAL INFORMATION**

- 7.1 All Confidential Information disclosed under this Agreement, as also any copies, reproductions or duplications duly authorized and made for the sole achievement of the Purpose shall remain in any case the property of the Disclosing Party.
- 7.2 No license or conveyance of any rights to either Party under any discoveries, inventions, patents, trade secrets, copyrights, or other form of intellectual property is expressly granted or implied by the disclosure or exchange of Confidential Information between the Parties.

**8. TERM AND TERMINATION**

- 8.1 The term of this Agreement, during which time Confidential Information may be exchanged, shall be for a period of 5 years from the Effective Date. The Agreement can be renewed for a further period, subject to the Parties' mutual agreement in writing to that effect.
- 8.2 This Agreement may be terminated earlier by either Party giving at least 30 days notice in writing to the other party of its intention to do so.
- 8.3 After the termination or expiry of this Agreement the Receiving Party will not make any further use, directly or indirectly, of the Confidential Information for any purpose without the prior written permission of the Disclosing Party.
- 8.4 Expiry or termination of this Agreement in accordance with the provisions of Article 8.1 and 8.2 shall not relieve the Receiving Party of its confidential obligations under this Agreement. Those obligations shall continue the Confidential Information falls within one of the exceptions set forth Article 5 above.

**9. RETURN OR DESTRUCTION OF CONFIDENTIAL INFORMATION**

- 9.1 Within thirty (30) days of the completion of the activities contemplated in Article 2 above or of termination or expiry of this Agreement or of Disclosing Party's request, whichever shall first occur, the Receiving Party shall return or destroy all Confidential Information disclosed hereunder and all copies thereof, at the choice of the Disclosing Party to be delivered in writing and certify in writing that all copies thereof in its possession have been returned and/or destroyed.
- 9.2 Upon written request by one Party, the other Party shall provide a signed, dated receipt which itemizes the Confidential Information transmitted or received hereunder.

**10. NOTICE OF BREACH**

Receiving Party shall notify the Disclosing Party immediately upon discovery of any unauthorized use or disclosure of Confidential Information by Receiving Party or its Representatives, or any other breach of this Agreement by Receiving Party or its Representatives, and will cooperate with efforts by the Disclosing Party to help the Disclosing Party regain possession of Confidential Information and prevent its further unauthorized use.

**11. CONTACT PERSONS**

With respect to any exchange of Confidential Information which may occur as a result of implementation of this Agreement, it expressly understood and agreed that the below listed employees shall, on behalf of the respective parties, be exclusive individuals authorized to receive and /or transmit Confidential Information under this Agreement.

<b>HINDUSTAN AERONAUTICS LIMITED</b>	_____
<u>Name:</u> <u>Title:</u> <u>Address:</u> Hindustan Aeronautics Limited, Transport Aircraft Division , Chakeri-Kanpur <u>Email:</u> marketing.knp@hal-india.co.in	

As regards the individuals identified in point above, each party shall have the right and power and authorization to re-designate such persons within their organization, who will have authorization to receive and /or transmit Confidential Information exchanged by the parties under this Agreement.

Any such re-designation which is made by any of the parties shall be effected by rendering written notice of such change to the other party.

**12. ASSIGNMENT**

Neither Party shall assign or otherwise transfer any of its rights nor shall obligations under this Agreement to any third party inure without the prior written consent of the other Party and any attempted assignment or transfer without such prior written consent shall be null and void.

**13. SEVERABILITY**

The invalidity or unenforceability of any provisions of this Agreement shall not affect the validity or enforceability of any other provision of this Agreement, which shall remain in full force and effect.

**14. WAIVER**

The failure of the either Party, at any time, to require performance and/or enforcement of any provision of this Agreement shall not be construed as a waiver of the requiring Party of its rights under this Agreement, nor shall the failure of the requiring Party to take action affect its rights, at some later date, to enforce these rights under this Agreement for breach of any of the provisions of this Agreement.

**15. CLASSIFIED INFORMATION**

Nothing herein shall be deemed to replace or prejudice any governmental security classification referenced on any part of the Confidential Information and the Receiving Party undertakes to respect and observe any such classification and to treat the same with such degree of care and security as is required by the relevant governmental authority in the country of the Disclosing Party. This obligation shall continue for the duration of this Agreement and thereafter until such time as the said authority shall deem appropriate.

**16. WARRANTY**

The Confidential Information will be supplied "as is" without any express or implied warranty and in particular without any limitation as to fitness of such Information for the intended purpose.

**17. AMENDMENT**

Any amendment to this Agreement must be made in writing and shall be signed on behalf of the parties.

**18. HEADINGS**

The headings of articles contained herein are used for convenience and ease of reference and shall not affect in any way the meaning or interpretation of this Agreement.

**19. SUCCESSORS**

Subject to clause 12, this Agreement shall be binding upon and inure to the benefit of the respective successors and assignees of both Parties.

**20. NON-EXCLUSIVITY**

This Agreement will not preclude either Party from working with others in any connection so long as the obligations described herein are respected.

**21. REMEDIES**

Both parties acknowledge that the Confidential Information to be disclosed hereunder is of a unique and valuable character, and that the unauthorized dissemination of the Confidential Information would destroy or diminish the value of such information. Both parties hereby

agree that in the event of a breach by the Receiving Party/employees in performing its responsibilities under this Agreement the Disclosing Party shall be entitled to injunctive relief preventing the dissemination of any Confidential Information in violation of the terms hereof. Such injunctive relief shall be in addition to any other remedies available hereunder including seeking damages, whether at law or in equity. Disclosing Party shall be entitled to recover its costs and fees, including reasonable attorneys' fees, incurred in obtaining any such relief. Further, in the event of litigation relating to this Agreement, the prevailing party shall be entitled to recover its reasonable attorney's fees and expenses.

**22. DISPUTE RESOLUTION**

In case of any dispute or difference whatsoever arising among the Parties out of or relating to the construction, meaning, scope, operation or effect of this Agreement or the validity or the breach thereof, Parties agree to schedule a mandatory meeting at a mutually agreed location to resolve the dispute which shall be attended by the representatives designated by the Parties. If the dispute is not resolved within two (2) months from the date of scheduled mandatory meeting stated hereinabove, the same shall be settled by arbitration in accordance with the Rules of International Commercial Arbitration of Indian Council of Arbitration, by a single arbitrator appointed in accordance with the said Rules. The seat of arbitration shall be in Bangalore India. The proceedings shall be conducted in English Language. The arbitration award shall be final and binding

Provided, during pendency of the arbitration proceedings, the parties shall continue to perform their obligations under this Agreement.

**23. GOVERNING LAW**

This Agreement shall be interpreted in accordance with the laws of India.

**24. CONFIDENTIALITY OF THIS AGREEMENT**

The execution, existence and performance of this Agreement, terms of this Agreement shall be kept confidential by the Parties hereto and shall not be disclosed by either Party without the prior written consent of the other.

**25. ENTIRE AGREEMENT**

This Agreement constitutes the entire Agreement among the Parties relating to the subject matter hereof and supersedes and cancels any and all previous declarations, negotiations, commitments, communications, approvals, agreements and confidentiality agreements, either oral or written, between the Parties in respect thereto.

**IN WITNESS WHEREOF,** the Parties by their duly authorized officers and representatives have signed this Agreement in two (2) original counter parts.

<b>HINDUSTAN AERONAUTICS LIMITED</b>	_____
Signature:	Signature:
Name:	Name:
Title:	Title:
Date:	Date:

Witnesses:

1.

2.

Witnesses:

1.

2.

(\*) – Authorized signatory of the Bidder / authorized person who has signed the offer.



Important details regarding this Tender:-

Any queries related to the said tender to be addressed to: General Manager, HAL TAD, Kanpur-208008, U.P.( India) .

Quotation/ Bid to be submitted to: Chief Manager (IMM), HAL TAD KANPUR, India.

E-Mail Id (only for seeking clarification): marketing.knp@hal-india.co.in

E-Mail Id (only for submission of bid): tender.knp@hal-india.co.in

(Bid submitted through e-mail id: marketing.knp@hal-india.co.in will not be considered for further processing)

Thanking you,

Yours Faithfully

For Hindustan Aeronautics Limited

A K Katiyar  
Chief Manager (Purchase)

Encl : as stated above