

School of Planning and Architecture, Bhopal

(An Institution of National Importance, Ministry of HRD, Govt. of India)



Tender Document

Providing manpower services for Bhauri Campus of SPA Bhopal

Tender No. : SPAB/NIT/2017-18/RGO/23

Dated: 16-03-2018

School of Planning and Architecture, Bhopal
(An Institution of National Importance, Ministry of HRD, Govt. of India)
Neelbad Road (Landmark: Bakania Depot), Bhauri,
Bhopal – 462 030 (M.P.)
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SECTION – 1

NOTICE INVITING TENDER

No.: SPAB/NIT/2017-18/RGO/23

Dated: 16-03-2018

TENDER NOTICE

Sealed tenders on behalf of the Director, School of Planning and Architecture (SPA), Bhopal are invited under **Two Bid System** i.e., Technical Bid and Financial Bid from reputed, experienced and financially sound company/ partnership firm/ agency for providing manpower to SPA, initially for one year. The contract could be extended up to 3 years. However the institute reserve the right to terminate at any point of time during the period of contact by giving a notice.

Contents:-

1. Technical Bid –Tender Procedure, Terms, Conditions and Requirements
2. Financial Bid

The Tender document including Terms & conditions can be downloaded from the Institute website (www.spabhupal.ac.in).

All pages should be signed and sealed.

1. **Schedule:**

Name of work	Selection of agency for Providing manpower to SPA Bhopal
Cost of tender document	Demand draft of ₹2,500/- (non-refundable) in the name of Director, SPA Bhopal
EMD:	EMD of ₹3,50,000/- along with Technical Bid (refundable but non-interest bearing) only in the form of Demand Draft from any Nationalized/ Scheduled Bank in favour of Director, SPA Bhopal payable at Bhopal or Transfer thorough NEFT/RTGS online payment (Canara Bank, Bhauri branch, Account No. 2073201002565, IFS Code: CNRB0004725 Name: Director SPA Bhopal) RTGS/NEFT/DD attached with Technical Bid
Pre-Bid Meeting	26-03-2018 at 15:00 hrs at Conference Room, Senate Block
Last date & time for submission of Bid	06-04-2018 up to 17:00 hrs
Date and time of opening of Technical bid	09-04-2018 at 15:30 hrs
Date and time of opening of Financial bid	Will be notified to bidders qualified in technical bid through Email, phone etc.
To whom the tender documents can be submitted	Bids shall be addressed to Assistant Registrar (Stores and purchase), SPA, Bhopal, Neelbad Road (Landmark: Bakania Depot), Bhauri, Bhopal (M.P.) – 462 030

2. The Technical bid in the prescribed forms duly completed and signed should be submitted in a sealed cover super scribing “**Technical Bid for Providing manpower**”. Similarly the Price Bid in prescribed forms duly completed and signed shall be submitted in a separate sealed cover super scribing “**Financial Bid for Providing manpower**”. Both the covers should put in a single large cover along with EMD & cost of application form super scribing “**Tender for Providing manpower**” should be put in a Tender Box kept in at Estate Office Gate Complex or send by speed post/courier to the Asst. Registrar, Stores & Purchase Section, SPA – Bhopal, Neelbad Road, Bhauri, Bhopal (M.P.) – 462 030 so as to reach us on or before 06-04-2018 up to 17:00 hrs.

SECTION – 2

ELIGIBILITY CRITERIA

- i) Registration for providing Manpower services.
- ii) Registration under EPF, ESI, Labour and Welfare Department (GOI), GSTIN Etc as applicable.
- iii) Agency has been providing Manpower services continuously in preceding Three years to reputed organizations/ educational institute.
- iv) The agency should have Minimum 50 personnel on its payrolls.
- v) Organized training arrangements personnel with clear recruitment policies.
- vi) The agency should have running contracts for providing Manpower services of annual value not less than ₹1.00 crores per Annum.
- vii) Annual turn-over for each year during the preceding three years should not be less than ₹ 50 Lakh each year.
- viii) A solvency certificate from the nationalised bank for an amount of ₹ 30 lakhs.

SECTION – 3

TERMS & CONDITIONS

1. The Agency shall be solely responsible for compliance to provisions of various labour, Industrial and any other laws applicable and all statutory obligations, such as, wages, allowances, compensations, EPF, Bonus, Gratuity, ESI, etc. relating to personnel deployed in the Institute. The institute shall have no liability in this regard. The Agency shall comply with all representations, grievances of the employees deployed by them at the institute. The Institute shall have the option to remit the wages, allowances, compensations, EPF, Bonus, Gratuity, ESI etc., at any time, on behalf of the agency, relating to the personnel deployed by the Agency in the Institute, should any situation/dispute arise.
2. The Agency shall be fully responsible monthly payment of wages as decided by the competent authority of the institute but not below the minimum wages prescribed and revised from time to time by the Govt. of India (Central Govt.) (Ministry of Labour & Employment etc.,) and any other dues to the personnel deployed by them in the institute". All payments to staff are to be disbursed in the presence of a representative of the institute or has to be paid through the bank account.
3. The Agency shall be solely responsible for any accident/medical/health related liability/compensation for the personnel deployed by it at institute". The institute" shall have no liability in this regard.
4. Any violation of instruction/agreement of suppression of facts will attract cancellation of agreement without any reference or any notice period.
5. The contract can be terminated by giving one month notice on either side. The institute will not pay any compensation in the event of such termination/cancelation. The institute also reserve the right to terminate the contract partially or may alter the requirements at any point of time during the subsistence of the contract.
6. In case of non-compliance with the contract terms the institute reserves its right to:
 - a) Cancel/revoke the contract, and/or
 - b) Impose penalty up to 10% of the total annual value of contract.
7. Performance Guarantee (Security deposit) equal to 5% of the Annual contract value (refundable without interest after two months of termination of contract) in the form of FDR in favour of Director, SPAB or a Bank Guarantee from a scheduled bank shall be furnished at the time of signing of the Agreement.
8. The personnel provided by the Agency will not claim to become the employees of the institute and there will be no Employee and Employer relationship between the personnel engaged by the Agency and the institute. The agency shall supervise and control the staff employed by it.

9. Others

a. ARBITRATION:

In case of any dispute or difference arising out of or in connection with the tender conditions/ job order and contract, the institute and the contract will address the dispute/ difference for a mutual resolution and failing which, the matter shall be referred for arbitration to a sole Arbitrator to be appointed by the Institute.

b. JURISDICTION

The Court at Bhopal alone will have the jurisdiction to try any matter, dispute or reference between parties arising out of this tender/ contract. It is specifically agreed that no court outside and other than Bhopal court shall have jurisdiction in the matter.

c. FORCE MAJEURE

If at any time during the currency of the contract, either party is subject to force majeure, which can be termed as civil disturbance, riots, strikes, tempest, acts of God etc., may prevent either party to discharge his obligation, the affected party shall promptly notify the other party about the happening of such an event. Neither party shall be reason of such event to be entitled to terminate the contract in respect of such performance of their obligations. The obligations under the contract shall be resumes as soon as practicable after the event has come to an end or ceased to exist. The performance of any obligations under the contract shall be resumed as soon as practicable after the event has come to an end or ceased to exist. If the performance of any obligation under the contract is prevented or delayed by reason of the event beyond a period mutually agreed to if any or seven days, whichever is more, either party may at its option terminate the contract.

d. PERFORMANCE GUARANTEE:

The successful Agencies shall have to deposit **5% of the total approx annual payment** towards Performance Guarantee by way of Transfer thorough NEFT/RTGS online payment (Canara Bank, Bhauri branch, Account No. 2073201002565, IFS Code: CNRB0004725 Name: Director SPA Bhopal) or Demand Draft/ Bank Guarantee issued by a Nationalized/ Scheduled Commercial Bank in favour of Director, SPA, Bhopal. The bank guarantee should be valid for 60 days beyond the period of contract.

**TECHNICAL BID
QUALIFYING REQUIREMENT DATA**

FORM 'A'

FINANCIAL INFORMATION

I. Financial Analysis- Details to be furnished duly supported by figures in Balance Sheet /Profit and Loss Account for 3 (three) years and certified by the Chartered Accountant, as submitted by the applicant to the Income Tax Department (copies to be attached).

SI. No.	Details	Financial Years		
		2013-14	2015-16	2016-17
1	Gross annual turnover			
2	Profit /Loss in I.T. Returns (enclose copy of I.T. Return acknowledgement)			
3	Total Service Tax/GST remitted (enclose copy of S.T. Return/ GST acknowledgement)			
4	Total PF remitted (enclose copy of PF . Return acknowledgement)			
4	Total ESIC remitted (enclose copy of ESIC Return acknowledgement)			
5	Total Labour Cess remitted (enclose copy of LC Return acknowledgement)			

(Signature of the applicant)

**DETAILS OF ALL CONTRACTS COMPLETED DURING THE
LAST FIVE YEARS**

Sl. No.	Name of Contract & Location	Name of Client	Annual Cost of contract	Period of contract		Total Duration	Name, Address & Tele No. of officer to whom reference may be made	Performance Rating given by the Organization
				From	To			
1	2	3	4	5		6	7	8

A certificate of satisfactory performance should be attached in each case. Wherever the certificate is not enclosed it will be treated as “unsatisfactory performance”.

(Signature of the applicant)

CONTRACTS UNDER EXECUTION OR AWARDED

Sl. No.	Name of Contract & Location	Name of Client	Annual Cost of contract	Period of contract		Total Duration	Name, Address & Tele No. of officer to whom reference may be made	Performance Rating given by the Organization
				From	To			
1	2	3	4	5		6	7	8

A certificate of satisfactory performance should be attached in each case. Wherever the certificate is not enclosed it will be treated as “unsatisfactory performance”.

(Signature of the applicant)

**PERFORMANCE REPORT OF CONTRACTS REFERRED
IN FORMS 'B' & 'C'**

(Furnish this information for each individual contracts from the employer for whom the contract was executed)

1. Name of contract & Location
2. Agreement No.
3. Annual Value of contract
4. Date of start
5. Date of completion
6. Performance report

i) Quality of service :

Excellent	Very good	Good	Fair

ii) Resourcefulness :

Excellent	Very good	Good	Fair

7. Any penalty imposed for bad performance :
8. Any litigation pending :

A certificate of satisfactory performance should be attached in each case. Wherever the certificate is not enclosed it will be treated as "unsatisfactory performance".

(Signature)
Senior Level Officer of the Client
(Seal of the organization)

Date:

DETAILS ABOUT THE ORGANISATION OF THE COMPANY

A) The particulars in respect of agency, to be filled up by the bidder:

S. No	Heads	Particulars	Enclosure
1.	(a) Name of the Agency & its Chief executive		(a brief profile of the agency should also be enclosed)
	(b) Name and title of Directors and officers with designation who will be directly concerned with this work.		
2.	Name, Address & Telephone/ Fax/ Mobile no. of Local Office at Bhopal with Contact Person	Contact Person Address Telephone no. Fax no. Mobile.....	(detailed office address of the agency with name or designation of the contact person)
3.	Year of Establishment		(enclose copy of registration)
4.	Legal status (Attach copies of original document defining the legal status). a) An individual b) A proprietary Firm c) A Firm in partnership d) A limited company or corporation.		
5.	Whether registered with all concerned government authorities? (a) Registrar of Companies, (b) EPF (c) ESI (d) PT		(copies of all certificates of registration should be attached)
6.	PAN / TIN number		Copy to be enclosed
7.	GST registration number		Copy to be enclosed
8.	Length of experience in the field		

9.	Whether the firm is blacklisted by any Govt. department or any criminal case is registered against the firm or its owner/partner anywhere in India? In this regard an undertaking must be attached.		
10.	Any other information considered necessary but not included above.		

DECLARATION

I hereby certify that the information furnished above is full and correct to the best of my knowledge. I understand that in case any deviation is found in the above statement at any stage, the concern shall be blacklisted and shall not have any dealing with the School in future.

I hereby further certify that I/we before signing this tender have read and fully understood all the terms and conditions contained herein and undertake myself/ourselves to abide by them.

(Signature of Tenderer with seal)

Name:

Seal:

Address:

Phone No. (O):

Date:

- Details in respect of government and non-government organizations may be provided in separate annexure accompanying this qualifying bid.
- The selected agency will be required to enter an agreement with the institute, the draft of which can be seen At Annexure-III.

FINANCIAL BID DOCUMENT

1. Name of the concern:
2. Address of the concern
(with Tel. No., Fax & e-mail):
3. Name & address of the Partners/
Directors (with Mob. No.) and their PAN No.:
4. Contact person(s) (with Mob. No. & Email ID):

5. **MAN POWER SUPPLY**

Remuneration and requirement for supply of manpower will be fixed by the Institute depending on the work requirement to be performed and qualification & experience. Applicable statutory charges and employer share of EPF & ESI shall also be reimbursed by the Institute. The tenderer is required to quote only the service charge.

S.No.	Particulars	in percentage of Gross Salary
1.	Service Charge %	

(It may be noted that the agency will not receive any other charges other than the monthly service charge on Gross Salary)

(Signature of Tenderer with seal)

AGREEMENT

(On Non –Judicial Stamp Paper of ₹1000/-)

Preamble

This **AGREEMENT** made the day of by and between School Of Planning And Architecture, Bhopal, Nilbad Road Bhauri Bhopal (hereinafter called the “**Institute**”), which expression shall, unless repugnant to the context thereof, include its successors-in-interest and permitted assigns);

.... of the First Part

And

M/s. (hereinafter called the “**Agency**”), which expression shall, unless repugnant to the context thereof, include its successors-in-interest and permitted assigns)

..... of the Other Part

WHEREAS the Institute is desirous to engage the Agency for providing manpower on service outsourcing basis and the Institute has accepted a bid by the Agency as per tender No: datedand at the rate submitted in financial bid of said tender process.

AND WHEREAS in consideration of the payments to be made by the Institute to the Agency, the Agency hereby covenants with the Institute to provide the services in conformity in all respects with the provisions of the Contract.

Now this agreement witnesses as follows:

DEFINITIONS:

- a) “**Agreement**” shall mean this agreement together with Tender Contract, Work Order, other communication issued in furtherance of this Agreement / Tender Contract and/or Appendices hereto and shall include any modifications and alterations hereto made in writing.
- b) “**Effective Date**” shall mean the date on which both parties have duly signed and executed this agreement.
- c) “**Parties**” shall mean the Institute and the Agency and ‘Party’ shall mean either the Institute and the Agency as the case may be.
- d) “**INR**” or “**₹**” shall mean Indian Rupees, the validly issued currency of the Republic of India;

“INTERPRETATION:

- a) Reference to the singular shall include reference to the plural and *vice-versa* and a reference to any gender shall include a reference to the other genders, except where the context otherwise requires.
- b) The Notes included in different parts of Tender shall form part of the Tender and shall be strictly adhered to by the Agency.
- c) The Schedules /Annexure to this Tender form part of this Tender and will be of full force and effect as though they were expressly set out in the body of this Tender. The provisions of this Tender and the Schedules and Annexures hereto shall be interpreted harmoniously and only if the provisions of this Tender cannot be interpreted harmoniously with the Schedules or Annexures or *vice-versa* on account of inconsistencies or ambiguities then the provisions of this Tender shall prevail over the Schedules.
- d) The Tender documents submitted by the Agency / Agency shall have binding force and shall be considered as a legally constituted agreement for all references.
- e) Reference to Agency / Agency shall mean Tenderes irrespective of the identity of the entity.

- f) Reference to any law or regulation having force of law includes a reference to that law or regulation, as from time to time, amended, modified, supplemented, extended or re-enacted.
- g) The words "include" or "including" shall be deemed to be followed by "without limitation" or "but not limited to" whether or not they are followed by such phrases.
- h) The preamble and the recitals shall form integral part of this Agreement.
- i) In this agreement words and expressions shall have the same meaning as are respectively assigned to them in the Conditions of Contract (Tender document) referred.

1. WORK ORDER:

- a) The Institute shall raise the Work Order (“**WO**”) as and when required by the Institute. The WO issued by the Institute, shall form part of this Agreement and will be come in effect only when both parties signed agreement.
- b) The WO shall indicate the manpower required to be deployed by the agency, On receipt of WO the Agency **shall recommend and provide profile of qualified persons for respective work.**
- c) The personnel provided will be required to perform duties as assigned to them by the Institute authorities time to time.
- d) Any undue delay in providing/replacing the requisite manpower will be considered as breach of contract and will be dealt with accordingly. The personnel shall be available for work on all working days (Monday to Saturday) during office hours. However, depending upon the exigencies of work,

2. OBLIGATION OF AGENCY:

- a) In addition to all such obligations as specifically mentioned in the Contract / Tender Documents, the Agency shall be under an obligation to fulfill all necessary obligations which may be incidental to or ancillary to the fulfillment of its obligations as per this Agreement, including but not limited to this Clause 4.
- b) Every personnel deployed under this Tender by the Agency shall be the employee of said Agency and the personnel shall not claim any benefit/compensation/absorption/ regularization of services with the Institute under any provisions of laws in force. Undertaking from the personnel to this effect will be required to be submitted through the Agency to the Institute.

- c) The Agency shall ensure that the personnel deployed under this contract shall maintain proper office decorum. They shall not disclose any secret official information to any unauthorized person.
- d) The Agency has to provide the Photo Identity Cards to the persons employed by him/her for carrying out the work. These cards are to be constantly displayed, when on work & their loss to be reported immediately.
- e) Institute shall not be liable for any loss, damage, theft, burglary or robbery of any personal belongings, equipment of the personnel of the Agency.
- f) The Agency shall be solely responsible for payment of remuneration/wages in compliance of all the statutory obligations as applicable including Minimum Wages Act, EPF Act. ESI etc., deduction and timely deposition of EPF, TDS (Income Tax), Professional Tax etc. on monthly remuneration payable to personnel. The institute shall have no liability in this regard.
- g) The Agency shall comply with all representations, grievances of the employees deployed by them at the institute. The Agency agrees that the Institute shall have the option to remit the wages, allowances, compensations, EPF, Bonus, Annual Paid Leave, Labor welfare, Gratuity, ESI etc., time to time, on behalf of the agency, relating to the personnel deployed by the Agency in the Institute, should any situation/dispute arise.
- h) The Agency shall conduct necessary verifications of antecedents of the personnel to be deployed to Institute and a certificate to this effect shall be submitted to the Institute in the form of an Affidavit.
- i) The Agency shall be held responsible for any loss or damage to SPA's property on account of negligence or misconduct of any task worker deployed by the agency.
- j) In case of any loss, theft, sabotage, etc. caused by or attributable to any of the personnel deployed by the Agency, the Institute shall have the right to claim damages from the Agency.
- k) Salary of a particular month will be disbursed by the Agency to its employees on or before 7th day of next month through bank accounts (i.e. Canara Bank) situated in the Institute Campus. The Agency agrees that no cash transactions will be involved in payment of wages/salaries etc. to the employees of the Agency.
- l) Agency acknowledges and agrees that "Time is of Essence" in this Agreement and therefore, all timelines shall be strictly adhered to by the Agency. The Work shall proceed with due diligence until Final Completion.
- m) Agency shall ensure that while completion of the Works, it shall not cause any nuisance to the neighboring areas, including noise and air pollution and that the Contractor shall take all due diligence and care in this regard.

- n) Agency agrees that any violation of instruction/agreement of suppression of facts will attract cancellation of agreement without any reference or any notice period.
- o) The Agency shall be solely responsible for any accident/medical/health related liability/compensation for the personnel deployed by it at institute". The institute" shall have no liability in this regard.

3. COMPLIANCE:

The Agency /Firm/Company shall be responsible for compliance with the provisions of all the applicable Labour Laws including:

- a) Contract Labour (Regulation Abolition) Act &, 1970;
- b) Minimum Wages Act, 1948;
- c) Workmen's Compensation Act, 1923;
- d) The Employee Provident Fund Act, 1952;
- e) Employee State Insurance Act, 1948; and
- e) Any other rules, regulations and / or statutes as may be applicable to them from time to time.

4. SUB-CONTRACT:

The Agency shall not assign transfer, pledge or sub contract the services/works.

5. REMUNERATION TO TASK WORKERS:

The remuneration/fee/salary/wages of persons deployed (task worker) shall be as decided and fixed by SPA, Bhopal. Remuneration/Wage/Salary so fixed shall be consolidated and inclusive of all allowances as well as weekly off pay. The agency will make payment to the staff on a monthly basis through bank accounts (i.e. Canara Bank) situated in the Institute Campus. The Agency agrees that no cash transactions will be involved in payment of wages/salaries etc. to the employees of the Agency.

The Agency shall ensure that remuneration/fee/salary/wages etc. so fixed shall be paid by the Agency on time to the workers without any delay. In case of any complaint received by the Institute in reference to the same will be considered as breach of contract and will be dealt with accordingly including immediate termination.

6. TAX LIABILITY:

The Agency shall be liable to pay all taxes, duties, royalties, statutory minimum payments / contributions to be paid to and / or on behalf of the manpower supplied by the tenderer, overheads etc.

7. RIGHT OF INSPECTION:

The Institute's representative shall have the right to inspect the Site, without any notice at any time, for assessing whether the Works being carried out at the Site are as per technical specifications and requirements of Institute.

8. REPRESENTATIONS AND WARRANTIES

The Agency hereby represents and warrants to the Institute that:

- a) The Agency has full legal authority to enter into and exercise its obligations under this Agreement/Tender Contract. The execution and delivery of this Agreement, and this transaction has been duly authorized by all necessary action on the part of the Agency.
- b) the execution of this Agreement will not conflict or be inconsistent with any of the terms, covenants, conditions or provisions of, or constitute a breach or default under or violation of:
 - (i) any applicable laws, rules or regulations,
 - (ii) any judgment, injunction, order, decree or ruling of any arbitral tribunal or any court or governmental authority, domestic or foreign, or
 - (iii) any agreement to which each Party is a party;
- c) Agency shall comply with all applicable laws and standards while performing the Services;
- d) Agency shall obtain all necessary consents, licenses and authorizations prior to providing Services;
- e) No third party contract is outstanding that could result in a claim against Agency that would adversely affect its ability to perform its obligations under this Agreement.
- f) Execution of this Agreement will not hinder or unfairly disadvantage any pre-existing creditor.
- g) There has been no act or omission by the Agency that would give rise to any valid claim relating to a brokerage commission, finder's fee, or other similar payment.

- h) The Agency is operating in accordance with all applicable laws, rules, and regulations of the jurisdictions in which it is carried on. In compliance with such laws, the Agency has duly licensed, registered, or qualified the Agency with the appropriate public authorities.
- i) The trademarks and trade names used in carrying on the Agency are owned exclusively and validly by the Agency. The trademarks and trade names are duly registered with the appropriate public authorities in order that the rights associated with the trademarks and trade names are protected.
- j) Agency will take all necessary precautions to prevent injury to any persons (including employees of Institute) or damage to property (including Institute's property) during the term of this Agreement;
- k) Works undertaken shall be in a manner consistent with the terms of this Tender, in accordance with Prudent Industry Practice and Applicable Law, and using the skill, care and diligence to be expected of appropriately qualified and experienced professional Agency with experience in works of a type, nature and complexity similar to the Works;
- l) Works undertaken shall be free from all defects, arising on account of bad workmanship and materials used;
- m) all necessary measures shall be taken to protect the Site and all persons, including Agency's personnel and at the Site from accidents and occupational disease; and in this regard, the Agency agrees to observe and comply with all safety regulations as prescribed under the Applicable Law and as per Prudent Industry Practices.
- n) In case of non-compliance with the contract terms, the institute reserves its right to:
 - a) Cancel/revoke the contract, and/or
 - b) Impose penalty up to 10% of the total annual value of contract.
- o) The Agency warrants to the Institute that each of the representations and warranties made by it is accurate and not misleading at the Effective Date. The Agency acknowledges that the Institute is entering into this Agreement in reliance on each warranty and representation.

- p) The Agency shall protect indemnify and hold harmless, the Institute and any of their respective officers, directors or employees from and against any and all damages, claims, suits, actions, judgments, costs and expenses whatsoever (including reasonable legal fees) arising out of or in any way connected with any act or omission of the Agency or either of its employees arising out of material breach of the terms of this Agreement or in connection with the act or omission of the Agency in exercising its rights and obligations under this Agreement or in connection with material breach of the Representations and Warranties made by the Agency.

9. Independent Contractor Relationship:

Nothing in this Agreement shall constitute or be deemed to constitute any partnership, joint venture, unincorporated association, co-operative entity or other joint relationship between the Institute and Agency for any purpose. Agency is not the agent of the Institute and is not authorized to make any representation or commitment on behalf of Institute. Agency or either of its employees is not and will not be entitled to any of the benefits that the Institute may make available to its employees, such as group insurance, profit sharing or retirement benefits. Agency agrees to accept exclusive liability for complying with all applicable state and federal laws governing self-employed individuals, including obligations such as payment of taxes, social security, disability and other contributions based on fees paid to Agency, its agents or employees under this Agreement.

10. PROPRIETARY RIGHTS:

The Agency agrees that the Institute shall own all worldwide right, title, and interest over all documents, not limited to plans, designs, drawings, specifications, reports and copies thereof, prepared and furnished by the Agency in connection with the Work pursuant to this Tender. As instruments of service they are the intellectual property of the Institute, irrespective of whether the work for which they are made may be executed or not, and such documents shall not to be reproduced or used on other work by the Agency, except with written consent by written agreement with the Institute. This is in pursuance with the pertinent provisions of Intellectual Property Law applicable in India.

11. MODE OF PAYMENT:

- a) Agency / Service Provider shall submit the bill in triplicate in respect of particular month in the first week of next month for release of payment along with duly verified attendance sheets, pay bill, proof of salary / remuneration paid and certified photocopies of payment towards EPF, ESI, Service Tax etc.
- b) All payments will be made on reimbursement basis and no advance shall be paid to the agency.
- c) Payment towards EPF/ESI will be released separately only after production of payment challans and declaration that "No payment is due towards EPF/ESI in respect of persons deployed in Institute by agency".
- d) Payment towards statutory liabilities like bonus, gratuity etc. (if quoted) will be made as and when due on reimbursement basis.
- e) For the avoidance of doubt, it is clarified that if a Bill is not accompanied by the supporting documents / in the profarma prescribed or if the Bill is disputed for any reason by the Institute, then such amounts of the Running Account Bill shall not be due and payable by Institute, until the dispute is resolved, or the supporting documents have been provided by the Agency, as the case may be.
- f) There would be no increase in rates payable to the Agency other than those specifically stated during the contract period except reimbursement of the statutory wages revised by the Central Govt.

12. TERMINATION:

- 16.1 The Institute reserves the right to terminate the contract with a notice of 60 days to the Agency without assigning any reason. The Agency awarded the contract, if so desire, can terminate the contract by giving 60 days notice.
- 16.2 In addition to other Clauses of this Agreement with respect to forthwith termination, either Party may terminate this Agreement forthwith in the event:
 - 16.2.1 The other Party fails to perform its obligations hereunder or is in breach of any terms and conditions of this Agreement;
 - 16.2.2 The Party discovers at any stage that the other Party is in violation of any law or regulation;
 - 16.2.3 Other Party is adjudicated as bankrupt, or if a receiver or as a trustee is appointed for it or for a substantial portion of its assets, or if any assignment for the benefit of its creditors is made and such adjudication appointment or assignment is not set aside within 90 days;

16.2.4 If other Party goes into liquidation either voluntarily or compulsorily;

16.2.5 If at any time either Party is prohibited by any regulatory or statutory restriction from continuing to provide services under this Agreement.

CONSEQUENCES OF TERMINATION

Upon termination, the Agency shall either immediately, or upon the date specified in the notice of termination:

- (a) cease to represent itself as a Tenderer of the Institute;
- (b) cease execution of all further Works, except for such Works as Institute may specify in the notice of termination, which is in progress;
- (c) Immediately vacate the site and remove all material, machinery, failure of which will make Agent liable for trespass. Further, Institute will be free to use the machinery and material without payment of any cost for the same.
- (d) deliver to the Institute, the Contractor's data, including Confidential Information, prepared by the Agency and all rights to use Intellectual Property in relation thereto, as at the date of such termination.

13. FORFEITURE OF DEPOSIT:

I- Earnest Money Deposit:

In case the bidder to whom contract is awarded backs out, the EMD of Rs. 3, 50,000/- of the Agency shall be forfeited.

II- Security Deposit:

In case of breach of any terms & conditions attached to this agreement, The Security Deposit of the Agency shall be liable to be forfeited besides annulment of this agreement.

14. ARBITRATION:

- a) Any dispute, difference arising out of or in connection with the formation, performance, interpretation, nullification, termination or invalidation of this Agreement, in any manner whatsoever, shall be referred to a binding arbitration in accordance with The Arbitration and Conciliation Act, 1996.

- b) The arbitration proceedings shall be conducted by a Sole Arbitrator to be appointed by the Director of the Institute at the time of the dispute, whose award shall be reasoned and in writing and shall be final and binding on the Parties. The Arbitration proceedings shall be conducted in the English Language and the venue of arbitration shall invariably be at Bhopal.
- c) Provided however, nothing contained in this Clause shall be deemed to prevent a party from approaching a Court of competent jurisdiction at Bhopal (Madhya Pradesh) for seeking interim relief prior to or pending arbitration.

15. GOVERNING LAW:

This Tender shall be governed by and construed in accordance with the laws of the India and the courts of Madhya Pradesh shall have exclusive jurisdiction, since Agreement has been executed by the Parties in Bhopal (Madhya Pradesh).

16. FORCE MAJEURE:

If at any time, during the continuance of this contract, the performance in whole or in part by either party, of any obligation under this contract, shall be prevented or delayed by reason of any floods, explosions, epidemics, quarantine restriction, act of God omissions or acts of public authorities including changes in law, regulations or policies of the Government, or other regulatory authority acts which are beyond the control of any Party (hereinafter referred to as the “**events**”), provided notice of happenings of any such eventuality is given by either party to the other within 7 days from the date of occurrence thereof, neither party shall be due to reason of such event be entitled to terminate this contract nor shall either party have any such claim for damages against the other in respect of such non-performance or delay in performance. The operation of contract shall be resumed as soon as practicable after such event may come to an end or cease to exist and the decision of the Institute as to whether the operation have been so resumed or not shall be final and conclusive, provided further that if the performance in whole or in part of any obligation under his contract is prevented or delayed by reason of any such event for a period exceeding 90 days either party may at his option terminate the contract.

17. SEVERABILITY:

In case any one or more of the provisions contained in this Agreement shall, for any reason, be held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect the other provisions of this Agreement, and this Agreement shall be construed as if such invalid, illegal or unenforceable provision had never been contained herein. If moreover, any one or more of the provisions contained in this Agreement shall for any reason be held to be excessively broad as to duration, geographical scope, activity or subject, it shall be construed by limiting and reducing it, so as to be enforceable to the extent compatible with the applicable law as it shall then appear.

18. AMENDMENT:

No variation of this Agreement or of any of the documents referred to in it shall be valid unless it is in writing and signed by, or on behalf of, each of the Parties.

19. WAIVER:

No waiver by either party of any right or remedy whether under this Agreement or otherwise shall be effective unless in writing.

IN WITNESS WHEREOF the parties above named have executed these presents in the presence of the Witnesses attesting hereunder on the dates and place mentioned herein below:

**For and behalf of Agency
SPA, Bhopal**

For and on behalf of

Signature of the authorized person

**Signature of the authorized
official**

Name of the authorized person

Name of the official

Stamp/Seal of the Agency

Stamp/Seal of the Institute

WITNESSES:

1. (.....)

WITNESSES:

1. (.....)

2. (.....)

2. (.....)