



TERMS AND CONDITIONS

KOCHI WAYFINDING DIGITAL SIGNAGE

1. Interpretation

- i. In these Tender Conditions, unless the context otherwise requires:
 - a. Tender means the Tender the Tenderer submits to the Tenderee in response to the Invitation to Tender and which is comprised of the documents specified in the Invitation to Tender
 - b. Tenderee means World Resources Institute (India) and its authorised representatives.
 - c. Tenderer means the Manufacturer/Vendor/Consortia submitting tender pursuant to the Invitation to Tender
 - d. Tender Documents means the Invitation to Tender, Tender Terms and Conditions and such other documents named as Tender Documents in the Invitation to Tender.
 - e. Tender Submission Date means the last date for submission of tenders mentioned in the Invitation to Tender.
 - f. Contract means the Contract to be entered into between the Tenderee and the successful Tenderer as a consequence of this Tender process.
 - g. Contract Obligations means the obligations that the successful Tenderer is required to carry out and in respect of the Contract.
- ii. In these Tender Conditions, unless the context otherwise requires;
 - a. Headings are for convenience only and do not affect the interpretation of these Tender Conditions.
 - b. Any reference to these Tender Conditions would also include these Tender Conditions as amended and supplemented from time to time.
 - c. Any reference to 'including', 'includes', or 'include' must be read as of it is followed by, '(without limitation)'.

2. Contents and Requirements

- i. The Tenderer must;
 - a. prepare and submit the Tender strictly in accordance with the requirements set out in the Invitation to Tender and the Tender Documents.
 - b. complete and include as part of its Tender all the schedules, annexure, appendices, and other information required by the Tender Documents.
- ii. The Tenderer must provide a list of subcontractors proposed to be engaged in respect of the Contract for approval by the Tenderee. However, the Tenderee reserves the right to refuse approval of any proposed subcontractor in accordance with the relevant provisions of the Contract.
- iii. By submitting a Tender to the Tenderee, the Tenderer agrees to the terms of the Tender Documents (including these Tender Conditions).

3. Confidentiality

- i. The fact that the Tenderer is seeking proposals for the supply of the goods and/or services, together with the Tenderer-Supplied Information and all information (whether oral, written or in electronic form) contained in the Tender Documents or disclosed to the Tenderer in connection with the Tender process including drawings, specifications and technical and other information supplied to Tenderers is confidential. Except with the prior written approval of the Tenderer, the Tenderer shall not disclose such information to any third party, or permit it to be used, copied, reproduced or distributed in whole or part for any purpose other than for the preparation of the Tender.
- ii. The obligations created by this clause do not apply in relation to any particular item of information that is or becomes public knowledge other than by a breach of these Tender Conditions.
- iii. The Tenderer must not advertise or issue any information, publication, document or article (including photographs or film) for publication or media release or other publicity in relation to the Tender. Where the Tenderer receives an enquiry relating to the Tender from the media, the Tenderer must refer the person making the enquiry to the Tenderer's representative and must immediately notify the Tenderer of the fact that an enquiry was made. The Tenderer must not make any other comment in response to such an enquiry.
- iv. The Tenderer may require the Tenderer to execute a confidentiality agreement at any time during the Tender process. The Tenderer may exclude from consideration any Tenderer that fails to sign such an agreement.
- v. Without limiting the Tenderer's obligations under clause 3.1 above, the Tenderer shall ensure that all employees, agents, contractors and subcontractors of the Tenderer and any other person to whom it discloses any of the information contemplated by clause 3.1 will in each case comply with the provisions of this clause 3 to the same extent as if such person had been named in this clause in the place of the Tenderer.
- vi. By submitting a Tender, the Tenderer agrees that the Tenderer may, for the purpose of carrying out the Tender evaluation, copy, use and disclose any documentation or information (whether in written, oral or electronic form) provided by the Tenderer.

4. Intellectual Property

- i. All rights of intellectual property, including copyright in the Tender Documents, drawings, data and technical and other pictorial and written information supplied to the Tenderer by the Tenderer or any person or body for or on behalf of the Tenderer, shall be and at all times remain the property of the Tenderer.
- ii. The Tenderer may, in its sole discretion and at any stage before or after completion of the Tender process, require that all written information (whether confidential or otherwise and without regard to the type of media on which such information was provided to any Tenderer including all copies of such information) be returned to the Tenderer, in which case the Tenderer must promptly return all such information to the address identified by the Tenderer.
- iii. Without affecting any intellectual property rights which may exist in a Tender, all Tenders submitted in relation to the Invitation to Tender shall be the property of the Tenderer.

5. Anti Competitive Behaviour

- i. In consideration of the Tenderee accepting the submission of the Tender, the Tenderer represents and warrants to the Tenderee that;
 - a. it has no knowledge of the Tender price or terms of any other Tenderer;
 - b. except where it has notified the Tenderee in writing prior to the submission of its Tender, the Tenderer has not entered into any contract, arrangement or understanding with any other Tenderer or any recipient of an Invitation to Tender as to the pricing or terms offered in the Tender.
 - c. it has not participated in any meetings with any other Tenderers or been involved in an exchange of information with any other Tenderers which, in either case, related to the Tender process or the Tenders themselves; and
 - d. it has not submitted a Tender to the Tenderee which has deliberately inflated pricing in order not to be the successful tenderer.
- ii. The Tenderer acknowledges and agrees that the Tenderee is relying on the representations and warranties in clause 5.1 when considering the Tenders and entering into the Contract. If the Tenderer breached any of the representations and warranties in clause 5.1 then;
 - a. the Tenderee may refuse to consider the Tenderer's Tender;
 - b. the Tenderee may take any other action that it is entitled to take at law; and
 - c. in the event that the Tenderee becomes aware of the breach of warranty after the Contract is entered into, withhold from any payments due under the Contract an amount equal to the Tenderee's estimation of the losses suffered by it from the breach of clause 6.1.

6. Conflict of Interest

- i. The Tenderer must disclose to the Tenderee any circumstances, arrangements or relationships which constitute, or might reasonably be considered to constitute, an actual or potential conflict of interest with the Tenderer's obligations under the Tender Documents or under any Contract that might be entered into. The Tenderer shall make this disclosure to the Tenderee as soon as becoming aware of it and, in any event, prior to submitting any Tender.

7. Tenderer to Inform Itself Fully

- i. The Tenderer must acquaint itself fully with scope of the Tender, all conditions, contingencies and risks contained in the Tender Documents that might affect its Tender or its performance of the Contract.
- ii. By submitting its Tender, the Tenderer represents and warrants to the Tenderee that it has;
 - a. prepared the Tender and would enter into the Contract with the Tenderee based on its own investigations, interpretations, deductions, information and determinations and has not relied and will not rely upon, any Tenderee-Supplied Information for any purpose (including, but without limitation, determining whether or not to lodge a Tender, preparing its Tender, entering into the Contract or performing its obligations under the Contract);
 - b. examined all information relevant to the risks, contingencies and other circumstances having an effect on the Tender and which is obtainable by the making of reasonable enquiries including (without limitation), the material contained in the Tender Documents, any relevant technical advice made available by the Tenderee and any applicable statutory requirements;

- c. not relied on information provided, or represented to be provided, by or on behalf of the Tenderee (other than information contained in the Tender Documents) without independently verifying that information and independently satisfying itself of the adequacy, accuracy and correctness of the information;
 - d. calculated its Tender price, including all taxes, duties, charges, licences and other costs, in addition to taking into account all other obligations under the Contract (and the other specific matters referred to in the Tender Documents), on the basis of the Tenderer assuming the risk position allocated under the proposed Contract;
 - e. satisfied itself as to the accuracy, correctness and sufficiency of the Tender for the Contract Obligations and that the Tender price covers the cost of complying with all of the Contractor's obligations under the Contract;
 - f. where appropriate, examined the Site together with its surroundings, conditions and characteristics and made an appropriate allowance in the Tender for any effect thereon; and
 - g. assessed and understood all applicable statutory requirements relevant to the Contract Obligations and that it is able to fully perform the Contract without breaching those statutory requirements.
 - iii. The Tenderer acknowledges and agrees that it has been provided with information (including information contained in the Tender Documents) by the Tenderee only for the Tenderer's convenience and accordingly.
 - a. the Tenderee does not assume any responsibility or duty of care in respect of, give any warranty or make any representations in respect of any such information (including as to its accuracy or adequacy); and
 - b. the Tenderer agrees that it shall have no claim against the Tenderee or any employee, agent or contractor of the Tenderee (whether in contract, tort (including negligence, equity, under statute or otherwise) in connection with any such information.

8. Site Inspections and Tender Meetings

- i. As specified in the Invitation to Tender, each recipient of the Tender Documents who intends to submit a Tender may be called to attend a Site inspection and Tender meeting.
- ii. The purpose of such a Site inspection and Tender meeting is for Tenderers to familiarise themselves with the accessibility of the Site, the Site conditions, the extent of the Contract Obligations and to have the opportunity to seek clarification on any matter concerning the Tender, the Tender Documents or the Contract.
- iii. Any failure by the Tenderer to attend a Site inspection and Tender meeting will not limit or affect any liability the Tenderer might subsequently have to perform the Contract Obligations in full.

9. Amendment of Tender Documents

- i. The Tenderee may, at any time or times prior to the Tender Submission Date, issue to the Tenderer any amendment, annexure or addendum to the Tender Documents. No amendment, annexure or addendum will form part of the Tender Documents unless it is in writing and expressly states that it shall form part of the Tender Documents.

10. Request for Further Information

- i. The Tenderer may request further information from the Tenderee in relation to the Tender process or the goods or services that are the subject of the Tender. Any such request shall be addressed to the Tenderee Representative listed in the Invitation to Tender and must be received by the Tenderee at least seven days before the Tender Submission Date.
- ii. At any time after the submission of Tenders, the Tenderee or the Tenderee Representative shall be entitled to request such further information as the Tenderee or the Tenderee's Representative may require from the Tenderer or to obtain clarification of any details included in a Tender. The Tenderer shall promptly comply with such requests.

11. Submission of Tenders

- i. The Tenderer may seek an extension of the Tender Submission Date only by submitting a written request for extension to the Tenderee Representative. Any such request should set out the reasons for the extension and must be received by the Tenderee Representative at least two business days before the Tender Submission Date. The Tenderee may, in its absolute discretion, grant or refuse any request for the extension of the Tender Submission Date.
- ii. It is the Tenderer's sole responsibility to ensure that the Tenderee receives the Tender on or before the Tender Submission Date. The Tenderee may, in its absolute discretion, consider or refuse to consider any late Tender response and negotiate or execute a contract with a Tenderer that has submitted a late Tender response.
- iii. Should the Tenderer discover any discrepancy, error or omission in its Tender response, the Tenderer shall immediately notify the Tenderee Representative in writing, of the nature of the discrepancy, error or omission.

12. Tenders Submitted by Joint Ventures or Consortia

- i. Where a Tenderer is comprised of more than one entity:
 - a. any Tender submitted must include all details relevant to each entity and the structure of the joint venture or consortium submitting the Tender, and the Tender must be executed by each such entity;
 - b. the liability of all such entities shall be joint and several in accordance with the provisions of the Contract; and
 - c. the Tenderee may require a copy of any joint venture agreement or other contractual arrangement relating to the Tenderer's composition to be provided to the Tenderee before considering any such Tender.

13. Withdrawal of Tender

- i. The Tenderer may, without prejudice, withdraw its Tender at any time before the Tender Submission Date.

14. Tender validity

- i. Tenders shall remain valid for acceptance by the Tenderee for a period of ninety (90) days commencing on the Tender Submission Date.
- ii. By submitting its Tender and in consideration of the Tenderee agreeing to evaluate that Tender, the Tenderer agrees not to amend or withdraw its Tender before the expiry of the period contemplated by clause 14.1 except with the prior written consent of the Tenderee.

15. Acceptance of Tender Responses

- i. A Tender will not be deemed to have been accepted and no contract will arise between the Tenderee and the Tenderer in respect of the Tendered goods and/or services until a formal written Contract is executed by the successful Tenderer and the Tenderee.
- ii. Should a Tender be successful, the Tenderer acknowledges and agrees that the Tenderee may incorporate all or any part of the Tender into the Contract.
- iii. The Tenderee may use its absolute discretion in prioritising the Tender responses and in selecting the successful Tenderer. The Tenderee will not necessarily accept the lowest price Tender as the successful Tender.

16. Earnest Money Deposit

- i. Earnest Money Deposit (EMD) at the rate of 2% of the estimated project cost is to be furnished in the form of a Bank Guarantee from and nationalized/scheduled in favour of WRI India.
- ii. The EMD of all bidders will be refunded after the finalisation of the Contract between the Tenderee and the successful Tenderer.
- iii. If during scrutiny it is found that the credential or any other document submitted or undertaken made by the Tenderer is false/incorrect/manufactured/fabricated the tenderer will not be allowed to participate in the Tender and the same will be outrightly rejected without prejudice and with forfeiture of EMD.
- iv. If the successful Tenderer fails to submit the additional Performance Guarantee as enumerated in Clause 17 before the date of signing of the Contract, his EMD shall be forfeited.

17. Performance Guarantee

- i. The Tenderer will be required to furnish Performance Bank Guarantee from a nationalized / scheduled bank by way of performance guarantee for due fulfillment of the contract and shall submit after award of work and before signing of the contract, for a sum equal to 10 % of the quoted amount. The performance guarantee shall be remain valid up to 2 months beyond the completion period of the work and the same shall be released after satisfactory completion of the Tender obligations.
- ii. In case the Tenderer fails to complete the work, the Tenderee without prejudice to rights and remedies available under contract, shall encash the performance guarantee amount and credit it to Tenderee. In case the Bank goes in liquidation or for any reason is unable to make payment against the said Bank Guarantee the loss caused thereby shall be borne by the Tenderee forthwith, on demand from Institute, and shall make good the deficit if any.

18. Payment Schedule

- i. Consideration for the work undertaken by the Tenderer in terms of the Tender submitted by him will be released only as per the Payment Schedule to be incorporated in the Contract.

19. Unsuccessful Tenders

- i. At the completion of the Tender process, the unsuccessful Tenderers will be advised in writing that their Tender has been unsuccessful. The Tenderee is not obliged to disclose reasons for the acceptance or non-acceptance of any Tender and no further correspondence in connection with the Tender Documents or the Tenders will be entered into.

20. Limitation of Liability

- i. The Tenderee makes no representation or warranty whatsoever (whether express or implied, written or oral) to the Tenderer and makes no undertakings to the Tenderer, other than to invite the Tenderer to submit a Tender in the manner contemplated by the Invitation to Tender.
- ii. The Tender Documents constitute an invitation to potential suppliers to make an offer to the Tenderee for the provision of goods and/or services to the Tenderee. The Tender Documents should not be construed or relied upon as an offer capable of acceptance.
- iii. The Tenderer participates in the Tender process contemplated by the Tender Documents at its own risk and expense. The Tenderer is not entitled to be reimbursed or compensated for any expense or loss incurred in connection with preparing or submitting the Tender or otherwise in connection with the Tender Documents.
- iv. To the maximum extent permitted by law, the Tenderee, its affiliates, directors, employees, officers and agents shall have no liability or responsibility whatsoever to the Tenderer (whether based in contract, promissory estoppel, restitution, quantum meruit, quasi contract, tort, statute or otherwise) in connection with or in relation to the Tender Documents, or the Tenderer's participation in the Tender process. Without limiting the foregoing, Tenderee will not be liable or responsible to the Tenderer in circumstances where;
 - a. the Tenderee elects not to acquire (in whole or in Part) the goods and/or services that are the subject of the Tender Documents;
 - b. the Tenderee conducts negotiations with any third party in parallel with any negotiations that it conducts with the Tenderer;
 - c. the Tenderee terminates the Tender process or any negotiations with the Tenderer;
 - d. the Tenderer is not selected to supply the goods and/or services that are the subject of the Tender Documents;
 - e. the Tenderee selects a non-conforming Tender as the successful Tender;
 - f. the Tenderee waives any non-compliance with the Tender Documents in respect of any Tender submitted as part of the Tender process;
 - g. any information or data forming part of the Tender is lost, corrupted or not received; or
 - h. the Tenderee exercises any of its rights or discretions under or in connection with the Tender Documents.

21. Discretionary Powers of Tenderee

- i. The Tenderee may in its absolute discretion (but shall be under no obligation to);
 - a. cancel the Tender process at any time (either in whole or in part and whether before or after the Tender Submission Date);
 - b. provide to all Tenderers any further information or addenda that has been provided to a particular Tenderer;
 - c. change the Tender Submission Date
 - d. refuse to consider any Tender submitted in violation of these Tender Conditions
 - e. in its evaluation and assessment of Tenders apply such criteria as the Tenderee sees fit and give such weighting to that selection criteria as may be determined by the Tenderee (in its absolute discretion).

- f. If the Tenderer deems to request any Tenderer for further information regarding the Tender and/or request the relevant Tenderer to amend the Tender.
- g. decide to have any other person or persons (whether or not a Tenderer who has submitted a Tender) carry out all or any part of the Contract obligations.
- h. negotiate with one or more Tenderers in relation to the terms of their Tenders;
- i. appoint a preferred Tenderer, but continue discussions with other Tenderers and suppliers;
- j. at any time pre-qualify, shortlist or enter into direct negotiations with any one or more persons (whether or not any such person submitted a Tender);
- k. divide the Tendered goods and/or services into two or more bundles and award contracts for those bundles to different tenderers; or
- l. require changes to the Contract Obligations, any technical specifications or otherwise engage any Tenderer in connection with the Contract Obligations.