

## **Policy Guidelines on cycle/Motor Cycle/Scooter/Car Parking Contracts extra over Northern Railway 2016.**

(Ref:C.C.No.29 of 2015 issued vide letter no. 2004/TG/IV/8/P dated 14-5-2016)

### **1. Introduction**

The railways should make efforts to provide parking facilities at all the stations where such facilities are required. For this purpose, a team of nominated Engineering and Commercial officers shall finalize a plan for each station after conducting a survey of the proposed parking area with locations and dimensions clearly marked on the plan. It must be ensured that the parking plan should in no way obstruct the passenger movement and traffic flow. While the primary objective of this policy is to provide parking facility to the passengers as an important amenity at stations, it should also be handled as revenue earning activity of Railways.

### **2. Types of parking contracts**

#### **2.1 Normal parking**

Facility of parking of private and public motor vehicles in railway station/premises- an important passenger amenity is being provided by the Railways, which, in most of the Railway station is outsourced and at some of stations wherever outsourcing is not feasible, the service is managed departmentally. The management of parking departmentally by Railway staff should be discouraged as far as possible. This practice should be exercised very rarely and only after all possibilities of arrangement through tender or quotation have failed; or at stations where outsourcing has not been found to be feasible or successful. This may be done with existing resources and no additional posts should be created for this purpose.

#### **2.2 Premium Parking**

Feasibility of providing Premium parking facility will be explored at 'A'-1' and 'A' category station. The agency (contractor) for this service shall provide adequate basic features like earmarked lanes for entry and exit, automated boom barriers as provided at toll barrier and to the extent possible, shall provide separate convenient access to the platform other than through the existing circulating area.

#### **2.3 Call Taxi/radio taxi**

Wherever there is a potential for extending parking facility for call taxi/ radio taxi etc. an adequate area for parking upto 10 such taxis/vehicles may be earmarked which should be independent of auto/taxi parking.

#### **2.4 Parking for passenger-carrying commercial vehicles (PCCVs)**

For other passenger carrying commercial vehicles, viz. Autos, Taxis (Cars), Tempos, Minibus, Bus etc. Adequate and separate space may be earmarked.

## 2.5 **Prepaid Auto/Taxi booth**

Prepaid Auto/Taxi booths which are generally being managed by local police/GRP may also be permitted in the space earmarked for Auto/Taxi stand. The taxes or charges due to State Government should be collected from the taxi operators by the State Authorities like local police/GRP etc. and the parking charges as applicable to passenger carrying vehicle of different types should be collected by the Railways either directly or through Parking contractor at rates decided by the Divisional authorities in consultation with Associate Finance with the approval of DRM.

- 2.6 Division shall endeavour to mark atleast two or more (if required) for parking of vehicles used by persons with disability. Proper Signages /Directions for these parking sites should be put up at suitable places. Further all efforts should be made for passenger awareness regarding availability of the said facility; like station announcements etc.

## 3. **Site Plan**

- 3.1 To prevent encroachment into additional area (over & above the allotted and earmarked parking area) by the contractor(s), railway shall provide a well demarcated , fenced and levelled surface to the contractor for parking purpose. Engineering department will be responsible for providing this land and will also be responsible for any violation. The site sketch duly signed by concerned SSE/W and SS will be displayed in SS room.

Site plan shall be a part of the tender document. Division must ensure that at the time of handing over of the site, an undertaking must be taken from the contractor that the parking site as per the site plan has been taken over in full by the contractor, clearly mentioning the parking area (in square meter etc). In the site plan, dimension of parking area (i.e. length and width of the parking area) will be clearly mentioned in the contract agreement and as well as in the taking over undertaking given by the contractor.

Encroachment as reported by SS/SM & concerned SSE shall be liable for penalty upto maximum of three times of pro –rata license fee, The penalty shall be levied from date of encroachment as reported by SS/SM & concerned SSE. The contract shall be terminated if the encroachment is not cleared within 45 days time w.e.f date of encroachment, as mentioned above. Concerned SS & SSE must report clearing of encroachment to Sr.DCM's office within 7 days from date of clearing.

## 4. **Parking rates :-**

Parking rates including premium parking rates for Auto /taxi /cars / cycle/scooter/ motor cycle & other two wheelers/mini bus/ other passenger carrying commercial vehicle should be fixed by Sr.DCM/DCM with the concurrence of divisional finance and the approval of DRM for all categories of stations. While fixing the parking rates, a survey should be carried out by a Survey Committee of sectional CMI and TIA/Accounts

staff of parking rates prevailing at other similar locations in the city/area. and parking rates should be reviewed and revised before inviting tenders. Parking rates should normally not be revised during the currency of contract, unless deemed absolutely necessary. In such case, revisions of license fee as per clause 11.2 shall apply.

## **5. System of allotment**

### **Normal Parking**

- 5.1 Parking contracts at all categories of stations i.e. A-1,A,B,C,D,E, and F, the parking contracts shall be awarded through “single Packet” open tender system for a period up to three years However, If there is lack of response, new /closed (since long time) parking sites contracts can also be awarded on quotation basis for a maximum period of three months at a time, with the concurrence of Divisional Finance (Sr.DFM) and the approval of DRM/ADRM. Further three months contract can be awarded on quotation with DRM's/ADRM's approval and finance concurrence (Sr.DFM). Total period of contract on quotation should not exceed 6 months.

Where separate space is available for awarding of parking contract of passenger carrying commercial vehicles (PCCVs), Call Taxi/Radio Taxi and Prepaid Auto/Taxi Booth; the same will be clearly mentioned in the tender document as well as in the contract agreement.

### **5.2 Call Taxi/Radio Taxi**

Contract for Call Taxi/radio Taxi should be given through an open tender.

### **5.3 Parking for passenger-carrying commercial vehicles (PCCVs)**

Contract for Parking for passenger-carrying commercial vehicles (PCCVs) may be given through open tender either independently or as a part of normal Car parking contract.

### **5.4 Premium Parking**

Contract for premium parking should be given through an open tender

- 5.5 The process of fresh tender should be Initiated six(06) months before the expiry of the existing contract so that there is no time gap between the expiry of existing contract and commencement of the new one.
- 5.6 At “F” category halt stations/ operated by halt agents, parking contracts can also be given to halt agents in addition to halt contract on a fixed reserve price based on assessed traffic and locally prevailing rates. Separate agreement for parking may be signed with the halt contractors, as per guidelines of parking policy.

## **6. Reserve Price (RP)**

- 6.1 Reserve price for all ‘A’-1, ‘A’, ‘B’, ‘C’, ‘D’, ‘E’ and ‘F’ category of stations should be assessed on the basis of the parameters such as number of users ,type of vehicles, parking charges prevailing at other locations in the area, last successfully operated rate (LAR) ,etc. by the Sr. DCM/DCM in advance before inviting tenders/quotations with the concurrence of Divisional finance.LAR (last successfully operated rate) shall be an important but not the sole binding criteria for determining the reserve price and that due consideration shall be

given to all factors. In this respect, periodic survey should also be conducted to assess the actual number of vehicles parked for fixing a realistic Reserve Price. The Reserve Price for premium parking should be kept at a reasonably higher level than the Reserve Price fixed for normal parking. The Reserve Price so fixed with the concurrence of Divisional Finance (Sr.DFM) should have the approval of DRM.

6.2. For new parking sites the reserve price will be fixed on the basis of an assessment carried out jointly by a committee of CMI & TIA/Accounts Staff as under:-

- (i) The total volume of the vehicles which could be accommodated in the proposed parking at one time would be assessed keeping in view the total parking area and area required for parking each vehicle.
- (ii) The anticipated percentage of different types of vehicle viz. cycle or scooter in a cycle/scooter parking would be worked out by the committee of nominated CMI and TIA/Accounts Staff keeping in view the local condition.
- (iii) The total vehicles assessed which could be parked in a day, would be multiplied by the approved parking rate. The figures worked out would be termed as X; i.e. the assessed turnover.

6.3 For 'A-1', 'A' & 'B' category stations the reserve price would be fixed 80% of X.

For 'D', 'E' & 'F' category stations the reserve price would be fixed 60% of X.

6.4. The reserve price of premium parking will also be fixed in accordance with same process as mentioned above.

6.5 The reserve price so arrived will be duly vetted by associate Finance and approved by DRM for all categories of stations.

6.6. Revision/Modification of Reserve price :-

In case no bid is received after 2 times failures due to reserve price, following are authorised for variation in Reserve Price with finance concurrence

(Sr.DFM):-

<u>Authority</u>	<u>% Variation</u>
DRM	upto 50%

## 7. Eligibility Criteria

For A-1, A and B category of stations:-

7.1 Registered company/Proprietorship Firm/ Partnership firm/cooperative society /Individuals are eligible to apply. The bidder will submit following documents;

a)Registered company: Memorandum and article of association alongwith certificate of incorporation duly attested by Company Secretary.

b)Proprietorship firm: Registration certificate.

c)Partnership: Partnership deed duly notarised/certificate of registration.

d) Cooperative society: Registration certificate.

- 7.2 Annual turnover of Rs 25 Lakhs for A-1 category stations and Rs 10 Lakhs for A and B category stations in each of last three completed consecutive financial years in Delhi& NCR area. For rest of the areas, turnover of the applicant should be Rs 25 lakhs for A-1 category stations and Rs 10 Lakhs for A & B category stations - over last three completed consecutive financial years; i.e. total of last three completed consecutive financial years. The bidder will submit the copy of audited balance sheet for last three consecutive financial years duly certified by a chartered Accountant along with copy of applicable Income Tax return, both duly certified by chartered accountant.
- 7.3 For A-1 category stations, the bidder should have experience of successfully completed minimum three works of similar nature where i.e. Parking Contracts, and minimum one work (parking contract) for A & B category stations - during last three completed consecutive financial years. Each work should be at least of 35% value of reserve price of first year.
- 7.4. The bidder shall submit an affidavit to the effect that it has not been blacklisted /debarred by any government body/PSU from business in the past and that it/he/she has not been involved in any unlawful activity
- 7.5 Certificate of satisfactory performance duly signed by a Gazetted officer in case of a Govt. department and by a Manager/Executive in case of PSUs, where bidder has done parking contract work.
- 7.6 PAN CARD.

**For other category of stations eligibility criteria will be as under:- (7.7 to 7.9)**

- 7.7. Registered company/Proprietorship Firm/ Partnership firm/cooperative society/Individuals are eligible to apply. The bidder will submit registration certificate of the company/proprietorship firm/partnership deed as applicable.
- 7.8 The bidder shall submit an affidavit to the effect that it has not been Blacklisted /debarred by any government body/PSU from business in the past that it/he/she has not been involved in any unlawful activity
- 7.9 PAN CARD.

**Note:** -It should be noted that if any tender is not accompanied by these documents, it will be liable to be rejected out-rightly.

**8. EMD**

- 8.1 The EMD for all type of parking contracts, to avoid frivolous participation (non-serious) intender process, shall be at least 2% of the total contract value. However, if accepting authority so deems fit, it can raise EMD to maximum of 10% of total contract value with finance concurrence. EMD shall be adjusted for in Security Deposit

**9. Security Deposit**

- 9.1 Security deposit should be equivalent to three months' licence fee paid in advance in the form of Demand draft after adjusting the EMD amount

before signing the agreement. This Security Deposit shall be released only after the completion of the contract duly ensuring that the railway premises is handed over by the contractor after proper cleaning and removal of debris with all railway assets intact with a certificate issued to this effect by SM/SS of the concerned station.

9.2 The security Deposit shall be same for all type of parking contracts.

#### **10.0. Performance Guarantee**

In order to ensure uninterrupted performance by the agency/contractor throughout the period of contract and as per conditions of contract, a performance guarantee in the form of either cash or acceptable form of financial instruments such as cash, demand draft, irrevocable Bank guarantee etc of value equivalent to 5% of the total value of bid amount/contract shall be collected from the successful bidder, in addition to security deposit before signing of the agreement. This shall be released only after successful completion of the contract.

#### **11 License fee**

- 11.1 Contractor shall pay the license fee in advance on or before 10<sup>th</sup> day of the first month of each quarter (i.e. every three months) during the period of contract irrespective of the date of allotment of the contract. Besides this, the contractor shall be liable to pay penalty if the due license fee has not been paid by the 10<sup>th</sup> day of the first month of each quarter. If the contractor delays the payment of license fee, a penalty @ 2% of the amount due shall be levied during the first month or part thereof. The same shall be enhanced to 5% of the amount due for second month or part thereof. After two months of continued non payment, Railway shall have the prerogative to initiate termination of contract and/ or to realise due amount with penalty @ 15% annual interest on delayed license fee payment.
- 11.2 License fee for an additional area given to contractor will be in the same proportion as the area, for example if additional 25 Square meter (sqm,) area is given to contractor who has a running parking on a 100 sqm. Area, the additional license fee will be increased by 25%. The same principal shall be applied in cases where the area is reduced due to Railways need for land. The license fee should be varied proportionately in accordance with parking area and parking rates only, with the approval of tender accepting authority (as per extant SOP/NR) and concurrence from associate finance. As far as possible, allotment of additional area after awarding the contract should be avoided.
- 11.3 Other charges payable by contractor: In addition to the license fee and taxes as applicable, contractor shall further pay to the railway administration through the station manager of concerned railway station, the electric/water installation charges, rent for meter and electricity/water charges by the 7<sup>th</sup> day of every month or by 7<sup>th</sup> day from the date of such demand raised by Railway authority or by 7<sup>th</sup> day of such demand raised by Railway authority (if any).

## **12.0 Evaluation**

- 12.1 Railways will intimate the date and venue of opening of the offers to bidders. They should be requested to be present at the time of opening of bids.
- 12.2 Conditional bids will be rejected.
- 12.3 A tender Committee constituted as per clause 13 shall evaluate the offers & the document submitted by the bidder in reference to the eligibility criteria & the recommendations shall be accepted/rejected/modified by the competent authority.
- 12.4 In case of any document submitted by the bidder is found false/forged, the bid will be rejected and bidder will be debarred from participating in future tenders over entire Northern Railway for next five financial years along with forfeiture of earnest money.
- 12.5 Clarifications in Proposal
- a) Northern Railway if required may at its sole discretion seek clarifications from the bidder(s) during the evaluation of the proposal.
  - b) All such clarifications to be sought by the Northern Railway from the bidder(s) will be in written form or by facsimile.
  - c) No change in the contents of the proposal will be permitted by way of such clarification sought from the bidder(s) by the Northern Railway.

## **13.0 Tender Committee**

The competent authority in all matters viz. Administrative approval for inviting tender/quotations, acceptance of tender/quotations, signing of agreement shall be as per Schedule Of Power (Northern Railway).

## **14.0 Award of Contract and agreement**

Letter of acceptance shall be issued to the successful bidder within seven working days of finalisation of the tender. Successful bidder shall pay security deposit & performance guarantee within 15 days of issue letter of acceptance. The service provider/successful bidder shall start operation of the allotted parking site within 15 days of taking over the site from railways (due compliance of clause 3.1 must be ensured).

The agreement duly vetted by associate finance as per GCC shall be executed within 30 days of issue of Letter of Acceptance (LOA).

A sample agreement is being issued along with the policy document, however the divisions may modify the same according to their specific requirements with legal and finance concurrence. The agreement must be in consonance with policy guidelines & should in no way contravene any clause of policy.

The contractor after signing agreement, shall not transfer, sublet or dispose of the rights and benefits under the agreement or any project agreement except with prior written consent of the Railways which Railways shall be entitled to decline without assigning any reason whatsoever. The contractor should

ensure enforcement of existing Labour Laws, Minimum Wages Act and at no point of time should the railways be drawn into litigation on these counts. The contractor should indemnify the Railway for the damages caused due to non-compliance to any statutory law, bye-law or service conditions.

#### **15.0 Shifting/ Relocation of parking**

In the event of shifting/relocating of the site as required by Railway administration, contractor should be given alternative site. The parking site will be relocated/ reduced only after the financial implication of this activity has been accepted by DRM. However, the contractor will have the option to leave the contract without any financial implications like forfeiture of security deposit etc. in case new parking location is not in consonance with its business interest. The license fee already paid for the remaining/unexpired period (from the date on which the contractor surrenders the parking space physically and on paper) shall be refunded. No interest shall be payable on the same. No penalty shall be imposed on him for this. Further, in case the contractor exercises the option to leave the contract (and not relocate/shift), no claim shall be preferred by the contractor in any court/arbitration etc.

The contractor shall not be allowed any compensation or claim for closure/inoperation of parking site (or part of it) for upto 10 days per year for security reasons/Govt. Holiday, strike, curfew etc, for example on independence and republic day, or for any other administrative requirement by Railways/State/District/Central government etc.

#### **16.0 Monitoring**

- 16.1 A register should be maintained by SS/SM in respect to parking contracts i.e. parking area, details of license fee,(paid and due for the period).For any addition/alteration and encroachment in parking area SSE/Works & SM shall jointly be responsible for the same.
- 16.2 The name of contractor/firm with site plan and allotted area should be displayed in SS/SM office.

#### **17.0 Automation and Computerization.**

- 17.1 For A-1 and A category stations in Delhi and NCR area, the use of automated devices by the contractor for issuing receipt and collection of the parking charges would be mandatory.
- 17.2 In case of detection of the contractor exercising the manual process, Sr.DCM shall be authorised to penalize as deemed fit, not exceeding 5% of total contract value in entire contract period.

#### **18.0 Responsibility of contractor**

- 18.1 The parking contractor will be responsible for maintaining cleanliness in parking area and all expenses in this regard will be borne by the contractor.
- 18.2 All Parking staff must be in proper uniform with proper Name Plates.
- 18.3 The contractor shall not in any capacity, employ any person of bad Character or any person, whose antecedents have not been Investigated / Certified by

the police authorities. The expenses for such verification shall be borne by contractor.

- 18.4 The contractor shall issue an Identity Card to his employees (signed by the contractor) which shall contain a photograph of the person employed with his signature / left thumb impression.
- 18.5 The parking area should be operated as "No smoking zone" and proper indication boards in this regard should be displayed.
- 18.6 Parking contractor is solely responsible for damage, loss or theft of vehicle and any claim arising out of such lapses will be solely borne by contractor before Court of law.
- 18.7 It will be the responsibility of contractor to dispose off the old/unattended/unclaimed vehicles parked in allotted parking area as per the procedures of same in Railway rules.
- 18.8 The licensee shall at all time keep the licensor/railways indemnify against and shall reimburse to the licensor, demands, suites, damage cost, charges and expenses etc. whatsoever which the contractor may sustain or incur by reason or in consequence of any injury to any persons or to any property resulting directly or indirectly for any act of commission or omission on the part of the contractor/his staff/employees in the conduct of the business for the purpose of which the contract is awarded.
- 18.9 The licensee shall prominently display of rates at site and on signages leading to parking sites.
- 18.10 The contractor shall provide a covered shelter in a manner that it does not adversely affect the aesthetics of the station building or the circulating area of the station.

#### **19.0 Tax Liability**

Contractors shall pay service tax and Swachh Bharat cess, as applicable, to Railways (on licensee fee) in addition to License fee for onward submission to concerned authorities as applicable from time to time. The parking contractor shall be responsible for all the taxes as applicable time to time to be paid to the concerned authorities for the services rendered by him. There will be no tax liability on the Railways whatsoever on any account. The invoice for license fee and taxes must be raised separately.

#### **20.0 Extension of contract**

- 20.1 Normally, extension of existing contract period should be avoided by proper advance planning. However, in unavoidable & exceptional circumstances, for ensuring uninterrupted service of parking to the passengers at a station, subject to willingness of the contractor, extension to the existing contract period may be considered for a period of three month at a time (maximum six months) with a provision for 10 % hike in license fee for the extended period on pro-rata basis with the approval of ADRM/DRM.
- 20.2 Exceptional circumstances include:-

- (a) Open tender floated in advance could not be finalised due to poor response.
- (b) Quotations could not be obtained due to poor response.
- (c) Parking services cannot be rendered departmentally.

## **21. Penalty**

21.1 If the contractor fail to provide satisfactorily service i.e. overcharging, non-display/non-prominent display of rates or misbehaviour by the staff etc..A fine of minimum Rs.1000/- and maximum upto Rs 5000/- per case as decided by the Sr. DCM may be imposed.

## **22. Termination**

22.1 The Railways can terminate the contract in case of non-payment of dues including (but not exhaustive) those defined in para 11, 19 and 21.1, continued non-compliance of Service conditions, violation contractual obligations by the Service Provider or any other reason as deemed fit by railway administration with maximum 30 (thirty) days notice for termination of contract.

In case of such termination of contract, Security deposit shall be forfeited by Railway administration and performance guarantee shall also be encashed by Railway administration.

22.2 Railway administration, if so required, can terminate the contract suo-motto with one month's notice to the contractor. The security deposit and performance guarantee shall be released to the contractor after due adjustments (if any). In such event, no compensation/claimed etc shall be payable to the contractor. The license fee already paid for the remaining/unexpired period (from the date on which the contractor surrenders the parking space physically and on paper) shall be refunded. No interest shall be payable on the same. The contractor shall not prefer any claim whatsoever in any court/arbitration/any other forum in such case.

22.3 A 48 hour notice shall be given for termination and for clearance of premises to the contractor by Sr. DCM with prior vetting of Associate finance (Sr.DFM).

## **23. Arbitration**

In the event of any dispute or difference of opinion arising out of this Agreement or any special condition of contract or in connection with this agreement, the same shall be referred to the sole arbitration of a Gazetted Railway officer appointed by the General Manager / Northern Railway. The Gazetted officer appointed as arbitrator however will not be one of those who had an opportunity to deal with the matter to which the contract relates or who in the course of their duties as Railway servants have expressed views on all or any of the aspects of the matter under dispute or differences.

In the event of the arbitrator dying, neglecting or refusing to act for any reason or his award being set aside by the court for any reason, it shall be lawful for the authority appointing the arbitrator to appoint another arbitrator in place of the outgoing arbitrator.

The award of the arbitrator shall be final and binding on the parties to the this contract subject to aforesaid. The Arbitration & Conciliation Act, 1996 and the rules made their under or any statutory modification and amendment thereof for the time being in force shall be deemed to apply to the arbitration proceeding under this clause.

The venue of arbitration shall be -----.

**24. Jurisdiction**

All disputes and matters shall be under the jurisdiction of concerned High court/District Courts etc. as mentioned specifically in the agreement.

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Draft Agreement of Parking contracts

LICENSE TO OCCUPY LAND FOR THE PURPOSE OF CYCLE/MOTOR CYCLE/SCOOTER/CAR/Commercial vehicles (as applicable) STAND AT .....RAILWAY STATION.

An Agreement made this -----day of -----two thousand ----- between the President of the Union of India, through Sr. DCM/----- as the Executive Authority of administration of the ----- Railway (Hereinafter called preamble "The licensor.....Of the One Part and Shri/M/s/Smt.----- (Hereinafter called the licensee/licensees) which expression shall where the context so requires or admits, be deemed to include his/her or either of his/heirs, executors and administrators Of the Other Part, WHEREAS THE LAND hereinafter described forms a portion of the -----Railways and has been for some time past in the occupation of the Administration and WHEREAS the licensee/licensees has/have applied to the Administration for a license or permission to operate a parking contract and for the said purpose to have the temporary use and occupation of the said land which on license or permission, the Administration have agreed to grant upon the terms and conditions hereinafter contained. Now it is hereby agreed and between the said party/parties here to as follows:

1. In consideration of payment of Rs ..... (amount of contract value, EMD, security, service tax, swachh Bharat tax etc. as applicable- in figure and words) , the licensor has agreed to enter in this agreement with the licensee, and authorize him to use the below mentioned parking site as per terms and conditions and schedule/annexures (please annex the same wherever applicable) for a period of ..... Month/year.
2. The licensee/licensees shall have the use of all that piece of land on the Railways station for the said purpose bearing survey no.-- authority within the registration Sub---District of -----station of District-----and measuring about ----- in length and ----- into run the breadth and containing by measurement-----contract square feet or thereabouts be the same little more or less and bounded as follows to say that is to say

On the North by:  
On the South by:  
On the East by:  
On the West by:

The parking site is as per the site plan enclosed as annexure \_\_ , duly signed by the railway authority and the licensee. The spaces for parking of vehicles being used by persons with disability are as marked ---- and ----- in

the site map. The space allotted for use of ambulance is marked ----- in the site map (if applicable). The total area of parking site is ----- sqm.

For the purpose of erecting a temporary four wheeler vehicles stand and for no other purpose whatsoever and subject to the condition hereinafter contained.

The licensee under this agreement, shall have no other title, or interest etc. in the land/parking site licensed, nor shall the licensee be deemed to have possession except the permission to use the said site for the currency of this license agreement. The overall control and supervision of the parking site shall vest with the licensor and his officials so authorized.

3. The licensee/licensees shall not erect or cause to be erected on the said land or on any part thereof any buildings or structures of a permanent or a quasi - permanent nature, except as detailed in para 4.
4. The licensee/licensees may lay, erect and retain upon the said land structures of purely temporary character only subject to such rules, regulations and by laws, as may from time to time be made by or on the behalf of the Administration or by or on behalf of any local authority in relating hereto and subject to the conditions hereinafter mentioned and shall have to provide at his/their own expenses all the facilities like stands, shelter, enclosures, and other facilities on the said land and the premises, and/shall be responsible for keep proper maintenance of fence boundary wall and surface provided by Railways during the continuance of license hereby granted. The same can be done only after due approval of the ..... (tender awarding authority as per extant SOP). The licensee shall prominently display rates at site and on signages leading to parking sites. The contractor shall provide a covered shelter in a manner that it does not adversely affect the aesthetics of the station building or the circulating area of the station.
5. The licensee/licensees shall before proceeding to erect any structure or structures in pursuance of clause 4 hereof give a notice in writing thereof to the SS/SM of the station of the-----division of Northern Railway concerned specifying the purposes sites of this temporary structures or structures intended to be erected and shall furnish him with the detailed plan, elevation and specification of such structure or structures and the licensee/licensees shall erect such structure/structures save on such site and in accordance with such plan, elevation and specification thereof as shall be first approved by the ..... 'Tender Accepting Authority' as per extant SOP of the Northern Railway.
6. The said temporary structure or structures shall vest in and shall become the property or properties of the Administration and shall be under their sole control and the licensee/licensees shall have no right or

interest in or claim to the said land or the structures (hereinafter called collectively the said premises) whatsoever.

i) The licensee/licensees shall use the said premises solely and only for the purpose as aforesaid for which it is licensed and shall not occupy land beyond what is described above, Encroachments as reported by SS/SM & concerned SSE shall be liable for penalty upto maximum of three times of pro rata license fee. The penalty shall be levied from date of encroachment as reported by SS/SM & concerned SSE. The contract shall be terminated if the encroachment is not cleared within 45 days time w.e.f. date of encroachment, as mentioned above. Concerned SS & SSE must report clearing of encroachment to Sr.DCM's office within 7 days from date of clearing.

7. It will be the responsibility of licensee to dispose off the old/unattended/unclaimed vehicles parked in allotted parking area at his own cost and consequences, in accordance with the Law and rules applicable.

#### **8. License Fee**

The Licensee/Licensees shall during the continuance of this contract pay to the licensor for the use of said premises under the conditions of this license an annual license fee of Rs.-----/- (Rs.----- only) plus Service tax at the rate of ----- %, swachh bharat cess at the rate of \_\_\_ % and other taxes/cess as applicable. The licensee shall abide by clause 19 (Tax liability) of the tender document.

The agreement may be revised at any point of time during the tenure of the contract to include statutory taxes/cess as introduced by the Government from time to time.

In addition to the license fee and taxes as applicable, licensee(s) shall further pay to the railway administration through the station manager of concerned railway station, the electric/water installation charges, rent for meter and electricity/water charges by the 7<sup>th</sup> day of every month or by 7<sup>th</sup> day of such demand raised by Railway authority (if any) If licensor deems they are not separately assessed in respect thereof and as may be intimated to the licensee(s) and any neglect or omission on the part of the servants of the licensor in giving such intimation to recover such charges shall not prejudice and right off the licensor to recover the correct amount of such charges due from the licensee(s) from the date of occupation by him/her/them of the said premises. These charges will be payable annually with 1<sup>st</sup> instalment while the license fee will be payable in quarterly instalments every year. The quarterly license fee so worked out will be rounded off to the nearest rupee and will be payable as per following programme/plan:

The licensee(s) will, if so permitted by the administration, pay the license fee recoverable in quarterly instalments payable as under:-

1st Installment on or before the 10 <sup>th</sup> day	------(month)-----
2nd Installment on or before the 10 <sup>th</sup> day	----- (month)-----
3rd Installment on or before the 10 <sup>th</sup> day	----- (month) -----
4th Installment on or before the 10 <sup>th</sup> day	----- (month)-----.

And so on....

Licensee shall pay the license fee on or before 10<sup>th</sup> day of the first month of each quarter (i.e every three months) during the period of contract irrespective of the date of allotment of the contract. Besides this the licensee shall be liable to make payment of penalty if the due license fee has not been paid by the 10<sup>th</sup> day of the first month of each quarter. If the licensee delays the payment of license fee the administration shall impose a penalty @ 2% of the amount due shall be levied during the first month or part thereof; the same shall be enhanced to 5% of the amount due for second month or part thereof. After two months of continued non payment, Railway shall have the prerogative to initiate termination of contract and /or to realize due amount with penalty @ 15% annual interest on delayed license fee payment.

(ii) License fee for an additional area given to licensee(s) will be in the same proportion as the area, for example if additional 25 sqm area is given to licensee who has a running parking on a 100 sqm. area, the additional license fee will be increased by 25%. The same principal shall be applied in cases where the area is reduced due to Railways' need for land. The license fee shall be varied proportionately in accordance with parking area and parking rates only, with the approval of ..... (tender accepting authority as per extant policy) and concurrence from associate finance. As far as possible, allotment of additional area after awarding the contract should be avoided.

**(iii) Shifting/ Relocation of parking**

In the event of shifting/relocating of the site as required by Railway administration, contractor should be given alternative site. The parking site will be relocated/ reduced only after the financial implication of this activity has been accepted by DRM. However, the contractor will have the option to leave the contract without any financial implications like forfeiture of security deposit etc. in case new parking location is not in consonance with its business interest. The license fee already paid for the remaining/unexpired period (from the date on which the contractor surrenders the parking space physically and on paper) shall be refunded. No interest shall be payable on the same. No penalty shall be imposed on him for this. Further, in case the contractor exercises the option to leave the contract (and not relocate/shift), no claim shall be preferred by the contractor in any court/arbitration etc.

(iv) The licensee shall not be eligible for any claim/compensation (monetary or otherwise) due to closure of parking site (or part/s of it), either continuous or broken periods, for at least upto 10 days an year due to administrative security reasons (like independence day, republic day, VIP visit etc) or any other reason deemed fit by railway administration/distt./state/central Govt etc.

9. (i) The Licensee/Licensees shall produce an Income- Tax Clearance Certificate at the end of each year ending the currency of the license.

**(ii) Validity of contract:**

Subject to the terms and conditions contained in this Indenture, the License shall be for a period upto three years (3 years) commencing from the -----and terminating on the -----.

The contract may be **Extended** for a period of three month at a time (maximum six months) with a provision for 10 % hike in license fee for the extended period on pro-rata basis with the approval of ADRM/DRM.

**(iii) Cleanliness of premises:**

The licensee(s) will be responsible for maintaining cleanliness in parking area and all expenses in this regard will be borne by the contractor.

The Licensee/Licensees shall always keep the plot of land in clean and sanitary condition and shall remove all waste or unsaleable properties or whatever other materials or refuse there may be from the said plot of land and vehicles stand and on his/their failing to do so, the Administration may after giving twenty-four hour notice forthwith remove the same at the expense of the Licensee/Licensees and dispose of the same in such manner as the Administration, may in their absolute discretion think fit and such expenses shall be paid on demand by the Licensee/Licensees to the Administration.

The licensee shall conform to and comply with the applicable laws, rules, regulations or bye-laws made in this regard from time to time by the central/state Govt, Tribunals, Railway administration, Municipal or local authorities.

10. The amount of Rs. ----- paid as **EMD** by Licensee/Licensees shall be adjusted against the security deposit amount of Rs.----- (equivalent to three months' licence fee and other charges such as cess, water charges, electricity charges, Municipal Tax etc.), to be deposited with the Sr.DFM/----- division of Northern Railway for due fulfilment of this agreement and said deposit or such portion thereof as may be available shall be refunded to the licensee/licensees on the termination of this license provided that/ the time of refunding such deposit the licensee/licensees shall surrender the original receipt granted by the Administration together with a receipt of the refund duly stamped and signed by him/them. In case the licensee/licensees is are unable to return the original receipt, he/ they shall be required to furnish and

indemnity Bond stamped and executed by him/them. No interest will be paid on the said deposits.

## **11. PERFORMANCE GUARANTEE**

Performance Guarantee (PG) equivalent to Rs\_\_\_\_\_, i.e. 5% of Rs \_\_\_\_\_ (the total value of contract) must be deposited with Sr.DFM/\_\_\_\_\_ division (through Sr. DCM/\_\_\_\_\_ division) in the form of either cash or acceptable form of financial instruments such as Bank guarantee/FDR(free from any encumbrance) within 30 days from date of issue of letter of acceptance. The same shall be refunded, if paid in cash/DD/FDR, after the completion of the contract. No interest will be paid on the said deposits.

### **(i)Forfeiture of Security Deposit and forfeiture/encashment Performance Guarantee:**

In case the Licensee(s) defaults in the payment of the licensee fee or any other charges that may be due to the Administration, the Administration shall be at liberty to recover such rent or other dues from the said amount of security deposit, forfeit the balance if any as liquidated damage forthwith determine the License and proceed to resume possession in a manner stipulated herein. In case of discontinuation of services by the licensee unilaterally or termination of contract by the Railway due to default on the part of licensee in terms of conditions of contract agreement, the Licensor shall have the right to forfeit the amount deposited as Performance Guarantee (Cash/FDR/DD/Bank Guarantee).

(i)If the licensee(s) discontinue(s) the operation of the parking area/contract or decides to pull out of the contract, he/she/they shall not be eligible to claim any refund of license fee of unexpired period. Further, in such case, Railway administration shall be at liberty to initiate termination of the contract and also forfeit security deposit and performance guarantee.

## **12. RAILWAY'S RIGHT TO ENHANCE OTHER CHARGES:**

The Administration reserves their right to enhance fee or the cess, rates and water charges, electricity charges as and when necessary to do so and such enhanced charges shall be applicable and recoverable from the Licensee from the date of the notice of enhancement in writing served on the Licensee.

**13.** The Licensee shall at his own expenses and on his sole responsibility obtain all other license of licensee (if any) necessary for carrying on his/their business, for the subject of this license on the said premises.

### **(i) Rates of Parking Stand**

The Uniform charges per vehicle on hourly basis or part thereof (whether vehicle is kept during day or night) as per month per vehicle be recovered from persons offering to keep the vehicle. Schedule of the rates given below:-

S.No.	Type of Vehicle	Duration	Amount

And so on....

No such fees will be leviable for parking of vehicles belonging to Railway Administration or vehicles of railway employees duly authorized by Divisional Commercial Manager. Thus Provision of free pass/concessional monthly pass for officers/staff on duty and other VIPs may be ensured.

To ensure charging prescribed rates for parking vehicles in parking stand, licensee/licensees should give printed coupon/receipt for vehicles which shall clearly depict the name/identification of parking lot, date and time of issue of coupons, the name of the licensee, Sr. Number on coupons with counterfoils and amount charged for coupon/monthly pass for vehicles stand, as the case may be, to avoid public complaint for charging more rates.

(For Delhi division:- For A-1 and A category stations in Delhi and NCR area, the use of automated devices by the contractor for issuing receipt and collection of the parking charges would be mandatory. In case of detection of the contractor exercising the manual process, Sr.DCM shall be authorised to penalize as deemed fit, not exceeding 5% of total contract value in entire contract period.

For other divisions: Computerized coupons should be encouraged for issue to the customers by the licensee of parking contract at A-1 & A category railway stations and coupon should have details of name/identification of parking lot, date and time of issue of coupons, the name of the licensee, Serial Number on coupons with counterfoils and amount charged for coupon/monthly pass. Division shall encourage issue of computerized parking coupons at other stations wherever feasible.

(ii)The Licensee/Licensees shall appoint reliable and honest staff in adequate number and only such as are able to control the traffic and one of good moral character and shall furnish their names to the administration. The contractor shall not in any capacity, employ any person of bad Character or any person, whose antecedents have not been Investigated / Certified by the police authorities. The expenses for such verification shall be borne by contractor. The staff of parking licensee shall wear specified uniform with name plates at their own cost and also wear on duty ID card issued by the contractor (signed by the contractor) which shall contain a photograph of the person employed with his signature / left thumb impression.

(iii) The Licensee is solely responsible for damage, loss or theft of vehicle and any claim arising out of such lapses will be solely borne by contractor before Court of law. The Licensee shall be solely responsible for safe Custody of vehicles parked with him/them and for any loss or damage caused to/of any vehicles in his/their custody and shall indemnify the Administration against all Claims/demands/action in respect of any loss or surcharge caused of/to any vehicles in his/their custody.

(iv) The Licensee shall at all times maintain good behaviour and shall not allow the doing of any such act on the premises as might cause injury or annoyance to others or as might tend to cause a breach of peace.

v) The licensee shall pay not less than the fair wages to the workers engaged by him/them, the fair wages being the wages paid for a similar works in the neighbourhood and shall otherwise comply with the provisions of the payment under "Payment of Wages Act 1936" or any statutory modification or re-enactment thereof or rules framed there under. The Railway administration shall be indemnified of any consequences (legal, financial or others) arising out of non-compliance of the same by licensee.

(vi) The licensee shall prominently display of rates at site and on signage leading to parking sites. The Licensee shall display a board duly painted at conspicuous places at and inside the parking area, exhibiting the daily and monthly parking charges for motor vehicles as laid down in clause 13.i of this agreement.

vii) The licensee after signing agreement, shall not transfer, sublet or dispose of the rights and benefits under the agreement or any project agreement except with prior written consent of the Railways, which Railways shall be entitled to decline without assigning any reason whatsoever. The licensee should ensure enforcement of all extant laws of the land including (but not limited to) existing Labour Laws, Minimum Wages Act and at no point of time should the railways be drawn into litigation on these counts.

The licensee should indemnify the Railway for the damages caused due to non-compliance to any statutory law, bye-law or service conditions. The licensor shall have all the rights to recover the same from licensee.

viii) In all cases where the said plot of land is adjacent to railway lines or sidings of the Administration over which trains are worked or shunting operations are conducted, the licensee shall appoint responsible person(s) who shall be rested at all time whenever any labour is engaged on the said plot to take all precautions to prevent accidents to life and property and more especially to see that all

children are kept at a safe distance from the lines of the Administration.

- ix) The Administration shall not be responsible for any loss or damage of any sort which may happen to the property of the licensee/licensees or to which the licensee/licensees may be put from any cause whatsoever.
- x) The licensee shall not display, erect, exhibit or place any advertisement or promotional hoarding, except as mentioned in para 13 (vi). The licensee shall not display or exhibit any posters, pictures or any other object/article. The decision of the licensor shall be conclusive and binding in this regard.
- xi) The parking area should be operated as “No smoking zone” and proper indication boards in this regard should be displayed.
- xii) It will be the responsibility of contractor to dispose off the old/unattended/unclaimed vehicles parked in allotted parking area as per the procedures of same in Railway rules.
- xiii) The licensee shall at all time keep the licensor/railways indemnify against and shall reimburse to the licensor, demands, suites, damage cost, charges and expenses etc. whatsoever which the contractor may sustain or incur by reason or in consequence of any injury to any persons or to any property resulting directly or indirectly for any act of commission or omission on the part of the contractor/his staff/employees in the conduct of the business for the purpose of which the contract is awarded.
- xiv) The contractor shall provide a covered shelter in a manner that it does not adversely affect the aesthetics of the station building or the circulating area of the station.

#### **14. Penalty**

14.1 If the contractor fail to provide satisfactorily service i.e. overcharging, non-display/non-prominent display of rates or misbehaviour by the staff etc.. A fine of minimum Rs 1000/- and maximum upto Rs 5000/- per case as decided by the Sr. DCM may be imposed.

#### **15. Termination:**

(I) The Railway administration can terminate the contract in case of non-payment of dues including (but not exhaustive) those defined in clause 3.1, 11, 19 and 21 of tender conditions, continued non-compliance of Service conditions, violation of contractual obligations by the Service Provider or any other reason as deemed fit by railway administration with 30 (thirty) day's notice. The licensee will not be entitled to any refund of license fee for the unexpired period.

In case of such termination of contract, Security deposit shall be forfeited by Railway administration and performance guarantee shall also be encashed by Railway administration.

- (ii) The railway administration, if so required, can terminate the contract suo-motto with one month's notice to the licensee. The security deposit and performance guarantee shall be released to the licensee after due adjustments (if any). In such event, no compensation/claim etc shall be payable to the licensee. The license fee already paid for the remaining/unexpired period (from the date on which the licensee surrenders the parking space physically and on paper) shall be refunded. No interest shall be payable on the same. The licensee shall not prefer any claim whatsoever in any court/arbitration/any other forum in such case.
- (iii) A 48 hour notice shall be given for termination and for clearance of premises to the contractor by Sr DCM with prior vetting of Associate finance

**16.** If the licensee, either or any of them, shall commit any breach of any of the provisions of this contract, the Administration shall be entitled to determine this license at once by serving a notice in writing under the hand of ..... (tender accepting authority) of the .....division of Northern Railway addressed to the Licensee, whereupon this license shall absolutely cease and determine and the Administration shall thereupon be entitled to pull down and to remove structure or structures which may have been erected by the Licensee/licensees upon the said land and to seal any materials and things so removed, and to apply the proceeds of sale as it deems fit.

**17.** Any notice by Railway administration to the licensee hereunder shall be deemed duly served on the licensee/Licensees, if delivered or sent by Registered Post-Acknowledgement Due to his/their address mentioned below.

**18.** Upon such a notice of determination being given as aforesaid licensee/licensees shall put down and remove the said land at their own expense on the determination of this license all structures erected as or above and restore to its former condition, the land forming the site thereof and if default shall be made herein, the Administration may after the expiry of the said period carry out so much of such pulling down, removal and restoration as the licensee/licensees may fail to complete and all expenses incurred herein as increased by the usual supervision charges shall be paid by the licensee/licensees to the administration on demand being made thereof.

**19.** Nothing herein contained shall be construed to create a tenancy or any claim or any right or interest or easement in favour of

licensee/licensees or in or over the said premises or to permit the licensee to transfer or to sub-let the benefit under this license.

- 20.** The Licensee/Licensees hereby declare/declares that the name Shri .....Is the name in or under which he/they carry on business by himself/themselves and that it is not the name of any other firm in which he/they carries/carry on business in partnership and that he/they do/does not carry on business in partnership with any other person or persons and that in case it shall at any time hereinafter appear that the said declaration herein contained or any part thereof is not true; In fact, the Administration shall not be bound to recognize any person or persons other than the Licensee/Licensees as being in any way interested or concerned in this license or in any benefit to accrue there under and that the Administration shall in addition be at liberty by a notice in writing under the hand of Divisional Railway Manager, ..... Railway, addressed to the Licensee/Licensees or to either or any of them or to his/their or either or any of his/their heirs, executors or assignees in insolvency as the case may be immediately to put an end to this license or that the licensee/licensees and any person or persons who may allege that they have any interest in this license, shall have no claim on the Administration by reason of this license being terminated in pursuance of the provisions contained herein.
- 21.** The partners jointly and each of them severally at all times keep the Administration, their offices and servants harmless indemnified against and shall reimburse to the Administration their Officers and servants of any of them all claims, demands, suits, losses, damages, costs, charges and expenses whatsoever including any claims under the Workmen's Compensation Act, 1923 and any amendments thereof which the Administration, their Officers or servants may sustain or incur or become liable to pay by reason or in consequence of any injury or accident to any person or to any property whatsoever, whether owing to the neglect, carelessness or any other conduct whatsoever of the licensee/licensees his/their or either of his/their agents, servants and others in his/their employment during the use by him/them of the license of the said premises or by any part thereof.
- 22.** Following Sub-sections of Section 108 of the Transfer of Property Act, 1882 save in so far as the same may be reproduced by those present shall not apply to the rights and liabilities of the parties hereto respectively under this Agreement namely Sub-sections (a) to (i); (m) to (o),(p) and (q).

23. Any money recoverable from the licensee either under this contract or any other contract can be recovered from any money payable to the licensee under this contract or any other contract.
24. The licensee/licensees shall pay all legal expenses, stamp duty, registration and translation charges and all other costs, charges and expenses incurred in connection with those present.
25. Any notice to be given to the Licensee/Licensees under the provision of these present shall be addressed to Shri-----  
-----
26. Subject to otherwise provided in this agreement all notices to be given on behalf of the President of the Union of India through railway authority as decided by tender accepting authority.

**27. ARBITRATION**

In the event of any dispute or difference of opinion arising out of this Agreement or any special condition of contract or in connection with this agreement, the same shall be referred to the sole arbitration of a Gazetted Railway officer appointed by the General Manager / Northern Railway. The Gazetted officer appointed as arbitrator however will not be one of those who had an opportunity to deal with the matter to which the contract relates or who in the course of their duties as Railway servants have expressed views on all or any of the aspects of the matter under dispute or differences.

In the event of the arbitrator dying, neglecting or refusing to act for any reason or his award being set aside by the court for any reason, it shall be lawful for the authority appointing the arbitrator to appoint another arbitrator in place of the outgoing arbitrator.

The award of the arbitrator shall be final and binding on the parties to the this contract subject to aforesaid. The Arbitration & Conciliation Act, 1996 and the rules made their under or any statutory modification and amendment thereof for the time being in force shall be deemed to apply to the arbitration proceeding under this clause.

The venue of arbitration shall be -----.

28. The High Court at ..... And the courts at .....shall have jurisdiction to try all disputes arising out of this license agreement.

29. IN WITNESS WHEREOF, Sr. DCM\_\_\_ division of the Northern Railway, for and on behalf of the Union of India and Shri. -----  
-----  
--- (Licensee) has here up to set their respective hands on the day and year above written.

Signed by

<p>----- Sr. Divisional Commercial Manager----- Sr. Divisional commercial Manager----- -----Railway of the ----- Railway in Presence of for &amp; on behalf of the President of the UNION OF INDIA</p> <p>Witness (Railway side):</p> <p>Signature</p> <p>----- Name----- Address----- -----</p> <p>Signature by above named</p> <p>----- In the presence of Station Manager of -----Railway-----</p>	<p>----- Licensee/Licensees With full particulars i.e  Name, Designation, Address etc.</p> <p>Witness(Licensee Side): Signature</p> <p>----- Name ----- Address----- -----</p> <p>Signature by above named</p>
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## Draft Arbitration Clause for Parking Contract

### **27. Arbitration**

#### **27.1 Demand for Arbitration**

**27.1(a)** Any Dispute, difference or controversy of whatever nature howsoever arising under or out of or in relation to this agreement (including its interpretation) between Railway Administration and the Licensee/ Contractor and so notified in writing by either Party to the other party (the "Dispute") shall in the first instance, be attempted to be resolved amicably.

**27.1(b)** Any Dispute, difference or controversy which is not resolved amicably within 30 days then any claim(s) on disputed matters shall be demanded in writing that the dispute or difference be referred to arbitration. Such arbitration shall be governed and held in accordance with the provisions of the Arbitration and Conciliation Act, 1996.

**27.1(c)** The demand for arbitration shall specify the matters which are in question, or subject of the dispute or difference as also the amount of claim item-wise if any. Only such dispute or difference, in respect of which the demand has been made, together with counter claims or set off, given by the Railway, shall be referred to arbitration and other matters shall not be included in the reference.

#### **27.2 Appointment of Arbitrator:-**

**27.2(a)** The parties may waive off the applicability of sub-section 12(5) of Arbitration and Conciliation (Amendment) Act-2015, if they agree for such waiver, in writing, after dispute having arisen between them, in the format given under Annexure-I of the agreement.

#### **27.2(b) Appointment of Arbitrator where applicability of section 12(5) of Arbitration and Conciliation Act, 1996 has been waived off:-**

**27.2 (b) (i)** In cases where the total value of all claims in question added together does not exceed Rs. 1,00,00,000/-(Rs. One Crore only), the Arbitral Tribunal shall consist of a Sole Arbitrator who shall be a Gazetted Officer of Railway nominated by the General Manager. The Gazetted officer so appointed, however, will not be one of those who had an opportunity to deal with the matter to which the contract relates or who in the course of their duties as Railway servant have expressed views on all or any of the aspects of the matter under such dispute. The sole arbitrator shall be appointed within 60 days from the day when a written and valid demand for arbitration is received by Railway Administration.

**27.2(b) (ii)** In cases of claims of more than Rs. one crore, the Arbitral Tribunal shall consist of a Panel of three Gazetted Railway Officers or 2 Railway Gazetted officers and a retired Gazetted Railway Officer, as the arbitrators.

The Gazetted officer(s) so appointed, however will not be one of those who had an opportunity to deal with the matter to which

the contract relates or who in the course of their duties as Railway servant have expressed views on all or any of the aspects of the matter under such dispute. For this purpose the Railway will send a panel of at least four (4) names of Gazetted Railway Officers of one or more departments of the Railway which may also include the name(s) of retired Railway Officer(s) empanelled to work as Railway Arbitrator to the contractor within 60 days from the day when a written and valid demand for arbitration is received by the Railway Administration. Contactor will be asked to suggest at least 2 names out of the panel for appointment as contractor's nominee within 30 days from the date of despatch of the request by Railway. The General Manger shall appoint at least one out of them as the contractor's nominee and will, also simultaneously appoint the balance number of arbitrators either from the panel or from outside the panel, duly indicating the 'Presiding Arbitrator' from amongst the 3 arbitrators so appointed. GM shall complete this exercise of appointing the Arbitral Tribunal within 30 days from the receipt of the names of contractor's nominees.

**27.2(c) Appointment of Arbitrator where applicability of section 12 (5) of Arbitration and Conciliation Act, 1996 has not been waived off:-**

27.2(c)(i) In cases where the total value of all claims in question added together does not exceed Rs. 1,00,00,000/-(Rs. One Crore only), The Arbitral Tribunal shall consist of a Sole Arbitrator who shall be a retired Gazetted Officer of Railway nominated by the General Manager. The retired Gazetted officer so appointed, however will not be one of those who had an opportunity to deal with the matter to which the contract relates or who in the course of their duties as Railway servant have expressed views on all or any of the aspects of the matter under such dispute. The sole arbitrator shall be appointed within 60 days from the day when a written and valid demand for arbitration is received by Railway Administration.

**27.2(c) (ii)** In cases of claims of more than Rs. one crore, the Arbitral Tribunal shall consist of a Panel of three retired Gazetted Railway Officers. The retired Gazetted officer so appointed, however will not be one of those who had an opportunity to deal with the matter to which the contract relates or who in the course of their duties as Railway servant have expressed views on all or any of the aspects of the matter under such dispute. For this purpose, the Railway will send a panel of at least four (4) names of retired Gazetted Railway Officers of one or more departments of the Railway which may also include the name(s) of retired Railway Officer(s) empanelled to work as Railway Arbitrator to the contractor within 60 days from the day when a written and valid demand for arbitration is received by the Railway Administration. Contactor will be asked to suggest at least 2 names out of the panel for appointment as contractor's nominee within 30 days from the date of despatch of the request by Railway. The General

Manger shall appoint at least one out of them as the contractor's nominee and will, also simultaneously appoint the balance number of arbitrators either from the panel or from outside the panel, duly indicating the 'Presiding Arbitrator' from amongst the 3 arbitrators so appointed. GM shall complete this exercise of appointing the Arbitral Tribunal within 30 days from the receipt of the names of contractor's nominees.

### **27.3 Cost of Arbitration**

The cost of Arbitration shall be borne by the respective parties. The cost shall inter-alia include fee of the Arbitrator(s), as per the rates fixed by Railway Board from time to time and the fee shall be borne equally by both the parties, provided parties sign an agreement in the format given at Annexure-II of the agreement after referring these disputes to arbitration. Further, the fee payable to the Arbitrator(s) would be governed by the instructions issued on the subject by Railway Board from time to time irrespective of the facts whether the Arbitrator(s) is/are appointed by the Railway Administration or by the court of law unless specifically directed by Hon'ble court otherwise in the matter.

### **27.4 Place of Arbitration**

The Venue of such Arbitration shall be at the place where the agreement has been signed and executed or as decided by the Arbitrator and the language of the Arbitration proceeding shall be English or as decided by the Arbitrator.

### **27.5 Obligation During Pendency of Arbitration**

27.5(a) Work under the contract shall, unless otherwise directed by the Railway, continue during the arbitration proceedings and no payment due or payable by the Railway shall be withheld on account of such proceedings, provided, however, it shall be open for Arbitral Tribunal to consider and decide whether or not such work should continue during arbitration proceedings.

27.5(b) Where the arbitral award is for the payment of money, no interest shall be payable on whole or any part of the money for any period till the date on which the award is made.

### **27.6 Others**

In the event of arbitrator (s) dying, neglecting or refusing to act for any reasons or his award being set aside by the Court for any reason, it shall be lawful for Appointing Authority General Manager to appoint another Arbitrator in place of the outgoing Arbitrator.

**27.7** The Arbitration Award shall be executed on stamp paper in accordance with the applicable Stamps Duty Act.

**Agreement towards Waiver under Section 12 (5) of Arbitration and Conciliation Act,1996.**

I/we.....(Name of agency/contractor) with reference to agreement no.....raise disputes as to the construction and operation of this contract, or the respective rights and liabilities, withholding of certificate and demand arbitration in respect of following claims:

Brief of claim:

- (i) Claim 1 – Detailed at Annexure –
- (ii) Claim 2 –
- (iii) Claim 3 –

I/we.....(post of ..... ) with reference to agreement no.....hereby raise disputes as to the construction and operation of this contract, or the respective rights and liabilities, withholding of certificate and demand arbitration in respect of following claims:

I/we.....do/do not agree to waive off applicability of section 12 (5) of Arbitration and Conciliation Act,1996.

Signature of Claimant \_\_\_\_\_ Signature of Respondent \_\_\_\_\_

**Witness By**

- 1. Name :-
- 2. Address :-

- 1. Name:-
- 2. Address:-

**Agreement under Section 31 A (5)**

I/we..... (name of claimant) with reference to agreement no.....hereby waive off the applicability of sub section 31 A (2) to 31 A (4) of the Arbitration and Conciliation Act,1996. We further agree that the cost of arbitration will be shared by the parties as per Clause 27.3 of this agreement.

Signature of Claimant \_\_\_\_\_Signature of Respondent\_\_\_\_\_

\*Strike out whichever not applicable.

**Witness By**

- 3. Name :-
- 4. Address :-

- 3. Name:-
- 4. Address:-

**Certification by Arbitrators appointed under Clause 63 & 64 of Indian Railway  
General Conditions of Contract**

1. Name :
2. Contact Details :
3. Prior Experience (Including Experience with Arbitrations):
4. I do not have more than five on-going Arbitration cases with me :
5. I hereby certify that I have retired from Railways w.e.f. \_\_\_\_\_ and empanelled as Railway Arbitrator as per 'The Arbitration and Conciliation Act-1996'.
6. I have no any past or present relationship to the subject matter in dispute, whether financial, business, professional or other kind. The list of such interests is as under :
7. I have no any past or present relationship with or interest in any of the parties whether financial, business, professional or other kind, which is likely to give rise to justifiable doubts as to my independence or impartiality in terms of The Arbitration and Conciliation Act-1996.

Or

I have past or present relationship with or interest in any of the parties whether financial, business, professional or other kind, which is likely to give rise to justifiable doubts as to my independence or impartiality in terms of The Arbitration and Conciliation Act-1996. The details of such relationship or interests are as under :

8. There are no concurrent Circumstances which are likely to affect my ability to devote sufficient time to the arbitration and in particular to finish the entire arbitration within twelve months.

Or

There are Circumstances which are likely to affect my ability to devote sufficient time to the arbitration and in particular to finish the entire arbitration within twelve months. The list of such circumstances as under: