GOVERNMENT OF INDIA
MINISTRY OF RAILWAYS
(RAILWAY BOARD)

No.2002/CE.I/SP/1 New Delhi, dated 12-7-2005.

The General Managers,
All Indian Railways.

Sub: Revised Standard form of Agreement for Private Sidings.

.....

Please find enclosed herewith a copy of Revised Standard Agreement for private siding along with its forwarding letter giving salient features of the revised Siding Agreement.

DA: 2 + 22 Pages.

(Parmod Kumar)

PARMOD KUMAR)
Executive Director, Civil Engg. (G).
Railway Board.

Copy together with a copy of the revised agreement is forwarded for information to:-

(i) FA & CAO, All Indian Railways,
(ii) Deputy Comptroller and Auditor General of India (Railways) R.No.124, Rail Bhavan (with 46 spares)
(iii) All PCEs/CE(Oo-ord) of Indian Railways,
(iv) All COMs and CCMs of Indian Railways.
(v) All other Executive Directors/Railway Board,
(vi) F(X)-II Branch & Legal Cell, Railway Board.
(vii) General Secretaries, AIRF, NFIR, IRPOF, FROA and AIRPFA Rail Bhavan,
(viii) Rail Vikas Nigam Ltd., C-2/10, Safdarjung Devp. Area, Aurobindo Marg New Delhi..

GOVERNMENT OF INDIA
MINISTRY OF RAILWAYS
(RAILWAY BOARD)

No.2002/CE-I/SP/1 **New Delhi, dated 12/7/2005.**

The General Managers,
All Indian Railways.

Subject :-Revised Standard form of Agreement for Private Sidings.

The siding agreement was last revised in 1985 and circulated to all concerned vide Board's letter No. 78/W-I/SA/3 dated 15.2.1985. Since then, there have been a number of representations from the siding owners to revise the siding agreements. A number of policy letters have also been issued on the subject thereafter. The important letters in this connection are:

(i) No. 99/TC(FM)/26/1 dt. 29.09.2000
(ii) No.96/CE-I/SP/7 dt. 14.09.2001
(iii)No. 96/CE-I/SP/7 dt. 18.02.2002
(iv) No.99/TC(FM)/26/1 dt.31.03.2005
(v) No.99/TC(FM)/26/1 dt. 31.05.2005.

Therefore, there was an urgent need to revise the format of the siding agreement. The siding agreement has since been revised and a copy of the same is enclosed for your information and necessary action. While enforcing/executing the new siding agreement, following observations/ stipulations should be kept in mind:-

(i) All the new private sidings must be constructed in terms of the new siding agreement,
(ii) Necessary additions/deletions/corrections/modifications must be effected in the existing siding agreements and these should be duly signed by the authorized representatives of all concerned parties i.e. Railways and the siding owner(s).
(iii) Only appropriate authority as indicated in Board's letter No. 99/TC(FM)/26/1 dated 31.3.2005 should sign the agreement.
(iv) While executing the agreement, Railway should ensure that the clauses which are not applicable in the particular case are deleted to avoid any confusion at a later date.

(v) Important dates like date of commissioning of the siding for carrying the traffic as indicated in clause 16(a) of the agreement and the date of notification of the siding for commercial use shall invariably be kept on record. These dates should also be entered in the siding agreements at appropriate places.

These instructions would be applicable from the date of issue of this letter.

This letter issues with the concurrence of Finance Directorate of the Ministry of Railways (Railway Board).

Receipt of this letter may please be acknowledged.

P Kumar

(PARMOD KUMAR)
EDCE (G)

Copy together with a copy of the revised agreement is forwarded for Information to:-

(i) FA & CAO, All Indian Railways.
(ii) Deputy Comptroller and Auditor General of India (Railways) Room No. 224, Rail Bhawan, New Delhi.(with 46 spares)
(iii) All PCEs/CE(C0-ord) of All Indian Railways.
(iv) All COMs and CCMs of All Indian Railways.
(v) All Other EDs/Railway Board
(vi) F (X)II Branch.
(vii) Legal Cell

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(vi) F (X)II Branch.
(vii) Legal Cell

..... RAILWAY
PRIVATE SIDING AGREEMENT

MEMORANDUM OF AGREEMENT made this _____ day of _____ 20 _____ BETWEEN THE PRESIDENT OF INDIA acting through the _____ Railway Administration (hereinafter called "the Railway Administration") of the one part and _____ (hereinafter called the applicant)* of the OTHER PART.

WHEREAS THE applicant is desirous of having a private siding laid by the Railway Administration at _____ from the _____station yard of the _____ Railway taking off from Kilometer No._____ between _____ station and _____ station of the _____ Railway as shown in red and green on the plan bearing CE's No._____ hereto annexed for the purpose of carrying on the Applicant's business in the Applicant's premises situated at _____ _____District_____

AND WHEREAS the Railway Administration is willing to lay the said siding for the said Applicant upon and subject to the terms and conditions hereinafter set forth.

NOW, THEREFORE, this Agreement witnesseth as follows:

1. Interpretation: In these presents, unless the context otherwise requires, the following words and expressions have the meaning and shall be interpreted as specified, namely-

(a) Words importing the singular number include the plural number and vice versa.

(b) "Person" includes a firm or other association or body of individuals and a Company or other corporate body.

(c) "The Railway Administration" means the President of India, acting through the General Manager for the time being of (name of Zonal Railway) Railway and any officer of the (name of Zonal Railway) Railway authorized by any such General Manager to deal with any matters with which these presents are concerned.

(e) "The Applicant" means the person named as party hereto of the other part and includes in the case of a firm or other association or body of individuals, the individual person or persons for the time being and from time to time constituting the firm, association or body and, in the case of a company, corporation or body corporate the successor in business of interest, such company, corporation or body corporate for the time being.

(f) "Works" means the premises belonging to or occupied or used by the Applicant which are connected with the (name of Zonal Railway) Railway system by the siding herein before mentioned.

(g) "Undertaking" includes all land, railway lines, works buildings, engines, rolling stock and other movable or immovable property now or at any time hereafter forming part of or pertaining to the (name of Zonal Railway) Railway system as now or hereafter constituted and all engines and rolling stock (whether belonging to the _____Railway system or not) passing over such system.

(h) "_____ Railway system" includes Private and Assisted sidings constructed by the Railway Administration for the use of other persons.

NOTE

FORMS OF DESCRIPTION OF THE APPLICANT

(A) (Where a single person is the Applicant), "and A.B. (insert full name) of (insert address and occupation)"

(B) (Where two or more persons are joint Applicants), "and A.B. (insert full name) of (insert address and occupation) and C.D. (insert full name) of (insert address and occupation)".

(C) (Where a single person trading under a different fee name is the Applicant)." and A.B. (Insert full name) of (insert address and occupation) carrying on business under the name or style of (insert name) at (if the business is carried on at a different address from the address already inserted then insert such additional address)."

(D) (Where a partnership firm is the Applicant and the names of the partner known), "and A.B. (Full name) and C.D. (full name) carrying on business partnership as (insert nature of business) under the style or firm of (insert name or style of the firm and address).

(E) (Where a partnership firm is the applicant and the names of partners are not known), "and A & Co. (insert name or style of the firm) a partnership firm carrying on business at (insert address) as (insert nature of business)."

(F) (Where an incorporated Company is the Applicant), "A.B. & Co. Ltd. a company incorporated in (insert country of incorporation (eg. India, England or elsewhere, as the case may be) and having its registered office at (insert address)" (in the case of a company incorporated elsewhere than in India add:) "and its principal office in India at (insert address)."

(G) (Where the Applicant is a joint family governed by the Mitakshara School of Hindu Law), "A.B. (insert full name) for self and as karta or managing member of the joint family governed by the Mitakshara School of Hindu Law carrying on business under the name or style of (insert name under which the joint family business is carried on) at (insert address) and C.D.E.F.G.H. etc. (insert full name) being the other adult members of the said joint family.

(H) "Siding" includes the Railway track connecting the Applicant's works with the _____ Railway system as hereinafter agreed to be constructed by the Railway Administration and all branches and extensions thereof which may hereafter be constructed by the Applicant or by the Railway Administration at the Applicant's request and all sleepers, ballast, embankments, bridges, tunnels, signals interlocking and tele-communication equipment gates, buildings and other constructions, erections, works and movable property constructed / erected/ made/ provided or used in connection with the said track and also all land whereon or ,on part whereof the said track and connected things aforesaid are constructed / erected / made / provided or used including land acquired for the purpose thereof as hereinafter provided and land belonging to the Railway Administration and land belonging to or occupied or used by the Applicant.

(I) "Sub-grade Work" includes the construction of embankments, the making of cuttings and the carrying out of other earth work, the construction of bridges (exclusive of girder works), buildings, platforms, tunnels, culverts, drains and openings and laying out of ballast, and all other works necessary to permit of the laying and construction of the railway track of the siding and generally all works which have to be abandoned if the siding be closed.

(J) "Permanent Way Materials" includes girders, rails, sleepers, fastenings, points and crossings, fencings, signaling, interlocking and telecommunication equipment and over-head structure and any other things connected therewith for electric traction and other machinery (except station machinery) and equipments necessary for working the siding.

(K) "Legal Representative" means any person who is competent to give the Railway Administration a valid discharge in respect of any money or property which may be payable or deliverable to the Applicant and shall include the executor and administrator of a deceased person, a succession certificate holder, the surviving or continuing partners or members in the case of a firm, association or body of individuals the certificated guardian of a minor's property, the committee of a lunatic, the assignee or receiver of an insolvent's estate, the liquidator of a Company, a receiver and any person legally appointed to represent the estate of the Applicant.

(L) "Departmental charges" means the charges leviable by the Railway Administration, when work is undertaken by the "Railway" for outside parties, in terms of the code of the Engineering Department (as revised from time to time).

(M) " Overhead charges: This, in the context of siding construction includes General charges, Departmental Charges and Contingency Charges as decided/revised by the Railway from time to time.

AGREEMENT TO CONSTRUCT SIDING – Subject to the terms and conditions hereinafter contained, the Railway Administration will at the cost and expense of the Applicant in all respects construct partly or fully on the land of the Railway Administration and partly or fully on the land of the Applicant the said siding, from _____ (length of siding) Kilometers on _____(name of portion) Branch as shown in red and green on the plan annexed hereto (bearing CE's No._____) connecting the Applicant's work known as _____ situated at or near _____ in the District of _____ with the _____ system at or near _____ on _____ Railway.

Preliminary Survey expenses –(a) The Applicant shall bear and pay to the Railway Administration in advance a sum of Rs. _____ (Rupees_____) for the first track kilometer or part of a track kilometer of the siding required and a sum of Rs. _____(Rupees_____) for every half track kilometer or fraction thereof in excess of one track kilometer as cost of survey and preparation by the Railway Administration of the plans and estimates for the siding when the same will traverse in a flat terrain but in case of sidings through difficult terrain of which the Railway Administration shall be the sole judge, the Applicant shall pay such sum as may be fixed by the Railway Administration. The amount of Rs. _____ (Rupees_____) and Rs. _____ (Rupees_____) respectively as stated above are subject to increase from time to time at the sole discretion of the Railway Administration on the circumstances of each case and the Applicant shall be bound to bear and pay such sum. Single copies of such plans and estimates will be sent to the Applicant on completion. If additional copies of such plans and estimates are required to be supplied, the Applicant shall have to pay such additional charges as may be levied by the Chief Engineer of the Railway. If the Applicant shall desire any alterations to such plans involving further survey work the Applicant shall pay to the Railway Administration in advance the cost of such further survey and the preparation of amended plans and estimates at the rates and terms as stated above in addition to the cost before mentioned.

Provided, however, that where a subsidiary or auxiliary line requiring additional survey work is proposed to be constructed off the main siding but forming part of the same, the additional length of such divergent line will be reckoned in calculating the survey charges.

Provided further that the amounts mentioned in this clause shall not be refundable under any circumstances when survey work has started but if the survey work is not started at all the amount may be refundable deducting such expenses as may be incurred.

(b) When the work of survey and construction of private siding is allowed to be carried out by the party through an approved consultant/consulting. Engineer, total charges (including all overhead* charges) to be recovered from the party shall be as follows:

(i) Surveys: (a) 1% of the assessed cost of the project at the stage proposal of the party for undertaking the survey as approved by the Railway.
(b) Balance amount to complete 2% of the Estimated cost of the project while applying for the final approval of the complete works,

(ii) Final Inspection: 2% of the cost of project while applying for final approval of the complete works.

4. **LAND** – a)The Railway land required for laying the siding will be licensed to the Applicant. The land outside the Railway boundary shall be acquired by the Applicant. The Railway Administration, however, may assist the Applicant for acquisition of land . All expenses towards acquisition of such land, including Supervision charges, shall be borne by the Applicant.

b) The Railway land required for the siding will be licensed to the Applicant. The Applicant will have to pay for land license fee at the rate of 6% per annum of the market value of the land or at such rate as may be revised from time to time. This license fee will be revised every year with a notional increase in land value of 7% P.a. or at such rate as may be revised from time to time over the previous year's market value. of land to arrive at the land value of current year. The land outside the Railway Boundaries shall be acquired by the Applicant at his cost by purchase or otherwise.

c) **License fee of land** : The Applicant shall pay to the Railway Administration in advance on the first day of April every year such sum of money as may be fixed by the Railway Administration from time to time as yearly license fee for the use and occupation of land belonging to the Railway Administration upon which the portion of the said siding and works colored red on the said plan shall be situated, the first payment thereof to be made on the 1st day _____ 20 ___.

5. **Sub-grade work** - The sub-grade work, culverts and bridges, drains, pitching and protection work and ballast supplying will be carried out at the cost and expense of the Applicant either by his own agency or by the Railway Admn. on his request. When the works or part of them are carried out by the Applicant the work should conform to the Railway Administration's drawings and specifications and shall be executed under the supervision of Engineering staff of the Railway Administration or under the supervision of approved consultant. The Applicant will have to pay the general charges for establishment, Departmental charges and other overhead charges as provided in extant orders of the Railway Administration, on the estimated cost of the work depending on the agency of execution.

6. Payment by the Applicant against the total estimated cost :

a) The Applicant will pay in advance to the Railway Administration the total estimated cost of the work to be done by the Railway Administration including all overhead charges as per the extant rules. After completion of the work and certification in writing by the Railway Engineer, the completion cost of the work will be arrived at with the cost of materials and labour based on actual and overhead charges as per rates, fixed from time to time added to it.In case the completion cost is lower than the amount deposited, the difference will be paid back to the Applicant and vice versa. No interest however, shall be payable by the Railway Administration on any such amount refundable to the Applicant. If the amount actually expended by the Railway Administration for the construction of the siding exceeds the amount paid in advance by the party the Applicant shall pay to the Railway Administration on demand the excess amount forth with in case the excess amount is upto 25% above the estimated cost. If the excess amount is more than 25% of the estimated cost, a revised estimate will be supplied by the Railway Administration as and when such excess amount is known and the Applicant will forthwith deposit the excess amount so involved.

b) The Railway Administration may execute the work by its own labour/through contractor or other agencies. If the Railway Administration incurs any additional liability arising out of litigation or arbitration award or any other dispute etc. after sanction of the estimate/Drawing physical progress of this work or even after sanction of Commissioner of Railway Safety, the Applicant will have to discharge the debt liability and he will be bound to pay the same within one month, from the date of the written demand in this regard.

(c) **Capital Cost**:
The capital cost of all traffic facilities such as 'Y' connection, additional lines at the serving station, crossing stations, patch doubling of the section etc. shall be fully borne by the railways. The distance for charging of tariff, for each 'Y' connection shall, however be inflated/increased by 5(five) kilometers. However, the capital cost for augmenting the facilities, within the premises of siding owner shall be borne by the siding owner.

(d) **Capital cost of new siding :** The siding owner shall bear the capital cost of the new siding from the take- off point at the serving station including OHE.

7 **(a) Permanent Way Materials** : The Applicant will provide and deliver at site the Permanent Way and other materials in accordance with the Railway Administration's standards and specifications as per the Railway Administration's estimate or if agreed by owner of the siding Railway can also arrange the P-Way materials at the site at owner's cost. On completion to the satisfaction of the Railway Administration of the sub-grade work the permanent way materials shall be laid by the Railway Administration. All charges incurred in laying and fitting the permanent way materials and all other equipments, which may be provided, including freight at public tariff rates, materials trains and handling charges shall entirely be borne by the Applicant.

In addition, the Applicant shall bear departmental and other charges as may be fixed by the Railway Administration from time to time on such cost borne by the Applicant. The Railway Administration may also, if so required by the Applicant, provide any station machinery required upon payment by the Applicant in advance of such cost and charges in respect thereof as shall be fixed by the Railway Administration.

(b) **Cost of electrification of siding**

(i) **Existing sidings** :

a) For siding of length upto 5 KM if quantum of traffic is 5 BOXN/ 7 BCN rakes per month or more , the same will be electrified at Railway's cost with a cost ceiling of Rs. 18 lakh per KM (Elect., Civil, S&T etc. all inclusive)

b) For siding of length more than 5 KM and upto 10 KM if quantum of traffic is 9 BOXN/ 12 BCN rakes per month or more, the same will be electrified at Railway's cost with a cost ceiling of Rs. 18 lakh per KM (Elect., Civil. S&T etc. all inclusive).

c) Sidings, where the traffic is lower than these limits, should be closed if the owner does not undertake to electrify the siding at his cost.

d) For the sidings at a) & b) above, a written undertaking in the prescribed form will be obtained from the siding owner concerned, guaranteeing the minimum level of traffic i.e. 60 BOXN/84 BCN rakes or 108 BOXN / 144 BCN rakes per annum, as the case may be.

e) For sidings of length more than 10 KM, the proposal will be dealt with individually, on merits.

(ii) **New Sidings:** For a new siding in the electrified territory or the territory approved for electrification, the capital cost of electrification of siding should be borne by the siding owner. This will also apply to the Military sidings.

(c) **OHE Maintenance (Both new & existing):**

OHE Maintenance cost both new as well as existing siding will be borne by the Railways.

8 (a) Maintenance and other charges for the portion of the siding within Railway Land:

i) The Applicant will also pay to the Railway Administration towards the ordinary maintenance of the said siding within Railway boundary (coloured red on the said Plan) viz. the permanent way, sub-grade work etc. at such rates as may be fixed by the Administration from time to time. Such charges shall be paid in advance within seven days after every 31st day of March. Such yearly payments will include all items upto the last day of respective financial year.

Provided that the entire cost of recoupment of ballast, renewal, replacement or strengthening of permanent way etc. shall be deemed to be special repairs and the applicant agrees to pay on demand the full expenditure incurred by or through the Railway Administration on this account. For this purpose, Railway administration would prepare an estimate based on actual expenditure which would include departmental charges and contingency as per the extant rules.

ii) The Applicant agrees that any special emergency repair works which may be necessary for the safety of the siding (the Railway Administration being the sole Judge for this purpose) will be done by the Railway Administration at the cost of the Applicant and the Applicant agrees to pay on demand any expenditure incurred by or through the Railway Administration on this account.

(b) Maintenance and other charges for the portion of the siding outside Railway land :

(i) The Applicant will at their own cost and expenses in all things and to the satisfaction of the Railway Administration and if required by the Railway Administration under its supervision maintain in good order and repair the said portion of the siding (on their own land, delineated and (coloured green on the said plan). Such charges as may be fixed by the Railway for the supervision rendered shall be paid by the Applicant.

(ii) Provided, however, that the Railway Administration may at the request of the Applicant undertake at any time the ordinary maintenance of the said portion of siding (colored green) on the Applicant paying annually to the Railway Administration in advance maintenance charges at such rates as may be fixed by the Railway Administration from time to time.

(iii) For arriving at equated track length of a private siding fraction upto half a kilometer shall be treated as half a kilometer and fraction above half a kilometer shall be rounded off to the next kilometer for the purpose of the taking track maintenance charges.

(iv) Provided also that when the Railway Administration is also required to carry out any renewals of Permanent Way Materials or strengthening of track and special repairs to sub-grade works including recoupment of ballast in respect of the said siding (colored green) the Applicant shall pay in advance to the Railway Administration the cost which the Railway Administration or their Engineer may estimate for such renewals of permanent materials or strengthening of track including supply of materials and special repairs to sub-grade work together with supervision and other charges as fixed by the Railway Administration.

(v) The difference between the cost so estimated and the cost actually incurred will be paid to or re-paid by the Railway Administration, as the case may be, on the completion of the particular work being certified in writing by Railway Engineer. No interest will be paid by the Railway Administration on any such advance.

(vi) The Applicant agrees that any special emergency repair works which may be necessary for safety of the siding (the Railway Administration being sole Judge for this purpose) will be done by the Railway Administration at the cost of Applicant and the Applicant agrees to pay on demand any expenditure incurred by or through the Railway Administration on this account. The Applicant shall also pay to the

Railway Administration departmental and other charges as may be fixed by the Railway Administration from time to time.

(c) Railway Administration will arrange to carry out necessary inspection of the portion of the siding out side the Railway land boundary free of cost. However, Wherever maintenance is being done by Railways at the cost of the Applicant, the Applicant shall continue to bear this cost. Further the inspection by Railway will not absolve the party from their responsibility or liability laid down in clause 18 herein after.

(d) The Applicant shall be responsible to keep the track and cess clear for day to day movement of Rolling Stock and locomotive .In case this is not done, the Railways will have the right to stop the working on the siding or impose a charge at a penal rate to be decided by the Railway Administration to have the track and cess cleared for the working of the siding.

9 **Weigh Bridge facilities and Level Crossings, etc.:**

(a) The Applicant shall provide and maintain at their own cost and expense a suitable electronic weigh bridge, weigh-bridge house and weigh bridge siding and such level crossings, gates and gate-lodges, within the siding limits as the Railway Administration may require the Applicant to provide from time to time.

The electronic-in-motion weigh bridge should be maintained by the siding owner at his cost to the satisfaction of the Railway and will be subject to periodical inspections by qualified staff at the cost of siding owner, who will record a certificate to the effect that the weigh bridge is showing correct weight and is in proper working order.

(b) A card will be kept by the Applicant testifying the accuracy of the weigh-bridge and giving date of tests as in the case of all Railway weigh-bridges. The Applicant should also permit the Railway weigh-bridge Inspector or such other staff as may be deputed by the Railway Administration at all times to check the accuracy of the weigh bridge and to supervise the maintenance, which shall be carried out by the Applicant to the satisfaction of the Railway Administration

(c) The maintenance shall be done according to Railway rules and regulations as in force from time to time. Such emergent maintenance as may be required for safety may be done by the Railway Administration without prior notice to the Applicant and the Applicant will have to pay on demand any expenditure incurred by the or through the Railway Administration on this account, including departmental and other charges as may be fixed by the Railway Administration from time to time.

Other rules & regulations regarding installation, operation and maintenance of weigh bridges as laid down from time to time by Railway administration would apply.

10. Installation and maintenance of tipplers or any other bulk handling system designs in the siding.

(a) At sidings using bulk handling system, tipplers or any other bulk handling system designs shall be provided and commissioned as per RDSO approved specifications, only when a joint certificate is executed by the Applicant and RDSO, that the system installed/provided is as per RDSO approved design and commissioned to their satisfaction.

(b) Siding owners shall always keep tippler and retarder or other bulk handling system in good condition, which will be jointly inspected with railways every six months. Tippling operation will be suspended if tippler/retarder is defective.

11. **Additional works including renewals, replacements and restrengthening:**

In the event of it being necessary after the opening of the siding any alterations or additions or renewals or replacement items as fencing, signalling, interlocking and tele-communication equipments, improved safety appliance or machinery of any kind or to provide quarters for signalers or staff for the working of the siding such additional work shall be provided at the cost of the Applicant as per the general condition governing the construction of the siding. Any additional expenses incurred in working of the safety appliance including but not limited to such as salary and allowances of signalers or watchmen or any other staff as well as all contributions or payments which the Railway Administration may make towards or on account of leave salary, pension, provident fund, bonus, special contribution to Provident fund, gratuity, house license fee, cost of uniform or any other contributions, payments or fringe benefits for the benefit of such signalers or watchmen or any other staff employed by the Railway Administration for the purpose of the Clause 11 in accordance with any rules

of the Railway Administration for the time being in force relating to the employment and emoluments of Railway servants, provision of stores and repairs shall be paid by the Applicant.

No addition or alteration shall be made to the siding nor shall any temporary or permanent structure be erected without the sanction in writing of the Railway Administration.
All such structures must comply with the regulations from time to time in force upon _____Railway system regarding standard dimensions and other matters. The terms and conditions of this Agreement will also be applicable to any additions and alterations made to the siding unless otherwise decided by the Railway Administration.

12. **Deposit towards the cost of removal of siding and all other charges:**

a) The Applicant shall deposit in advance at the time of construction of the siding a sum considered sufficient by the Railway Administration to cover the cost of dismantling of the siding and other charges in connection therewith within the Railway land and marked in red, in the event of

termination of this agreement on such ground on which the Applicant shall be liable to pay the cost of dismantling of the siding and other charges. No interest will be allowed by the Railway on such deposit if made in cash. Paper securities at 5% below the market value hypothecated to FA&CAO may also be permitted. Interest accrued on this account may be paid to the Applicant.

As the above deposit and the costs are provisional the applicant shall further pay on demand at the time of dismantlement any difference in cost between the cost of dismantlement and the initial deposit, failing which the Railway would be at liberty to appropriate the materials belonging to the party towards such cost. Any sum due to the Applicant out of the initial deposit will be refunded to the Applicant.

b) The applicant shall pay all rates, taxes, cesses and assessments whatsoever payable, or hereafter to be payable, to any local body or State or Central Government in respect of all structures, buildings and other works built or erected in connection with the siding.

13. (a) Cost of Railway staff Employed at the siding.

In all private sidings other than Engine on load only, barring the cost of one commercial staff per shift, railways will bear the cost all other railway staff. The cost of all staff at Engine on Load (EOL) siding will be borne by the Railways.

(b) **Engine on Load (EOL) Policy.**

Instruction as laid down in Board's letter No. TC-I/94/214/9/Vol.-II dt.18.03.2005, enclosed as annexure-I should be followed in this regard .

14. <u>Traffic on siding:</u>

(a) Wagons will be hauled by the Railway Administration (subject to such rules and restrictions as may be enforced from time to time and from the point marked 'X' in the said Plan No.(same number as in Clause 2) hereinbefore referred to or such other points as may hereafter be fixed upon by mutual consent of the Applicant and Railway Administration in writing at which point they shall be made over to the Applicant and returned to the Railway Administration in such manner as shall be determined in each case by the Railway Administration. If the Applicant undertakes to shunt the wagons from such point to his premises and back with his own staff and locomotive the Railway Administration will not be responsible for any delay, loss and damages caused in consequence of the failure of the Applicant to arrange for such shunting.

b) Provided that the Railway Administration may at the request of the Applicant undertake shunting by locomotives of wagons inside the premises of the Applicant on the portion of the siding colored green in the said plan and demand such additional charges as may be determined from time to time by the Railway Administration but this facility may be withdrawn at any time at the sole discretion of the Railway.

c) No traffic in commodities other than such as can reasonably be regarded as necessary for the working or requirements of the mill, factory or industry of the firm, shall, except with the written permission of the General Manager of the _____ Railway or an Officer authorized by him, be at any time taken or sent by the Applicant over the siding. No consideration or remuneration of any nature, except such as may be contained in a written permission of the General Manager or an Officer authorized by him, shall be received or taken by the Applicant in respect of traffic over the siding.

15. **Siding not to be used by other Person (a)** No traffic; inward or outward other than that of the Applicants Works shall at any time be sent over the siding by the Applicant except with the prior written permission of the Railway Administration and the Applicant undertakes not to permit any other person whomsoever to use the siding and not to take or receive or permit any other person to take or receive from any other person whomsoever any consideration of remuneration of any sort or in respect of the carrying of any commodity over for any purpose whatsoever in connection with siding except with the prior written permission of the Railway Administration and in all cases or disputes or differences with regard to any matters mentioned in this clause the decision of the Chief Operations Manager/Chief Commercial Manager of_____ Railway shall be final and binding on the Applicant.

(b) The Applicant is forbidden to assign, transfer or sublet in any manner whatsoever either/whole or any part of the siding without prior written permission of the Railway Administration. The booking and delivery of traffic of co-user of the siding shall be governed by the same rules and regulations as applicable to the siding owner as far as levy of freight and other charges are concerned. The siding owners shall give a written undertaking that_____(Name of the party/ co-user) has been allowed to use_____(Name of the siding) owned by him with his consent and that the co-user(s) will be responsible for the payment of all Railway dues that may accrue as a result of granting of such facility.

(c) For the sister concerns of the Applicant desirous of utilizing the siding facilities, the booking transactions, etc. shall be in the name of the Applicant only and not in the name of the sister concerns.

16. **Freight etc. on traffic :**

(a) The Applicant shall pay freight and also all other charges (including siding, placement and withdrawal charges, where leviable) on traffic booked and required by him from and to the siding, from the date of opening of the siding in accordance with the Railway Administration's tariffs, Circulars and Advices in force at or given effect to from the time the traffic is carried or such rates as may be fixed by the Railway Administration from time to time. Such traffic will be subject to all the rules, conditions and charges as contained in such Tariffs, Circulars and Advices. The date of opening of the siding will be reckoned from the date of notification issued by Commissioner of Railway Safety or by the Civil Engg Department, as the case may be,

stating that the said siding is opened to Railway traffic and is fit for movement of the same.

(b) The free time allowed to the Applicant and other co-users of the siding for loading and unloading and the demurrage charges leviable for detention in excess of such free time will be governed by the rates and rules published from time to time in the Tariffs, Circulars and Advices of the Railway Administration and in force at the time the traffic is carried.

(c) The Railway Administration will not be responsible for loss, damage, destruction, deterioration of the contents of wagons booked at either owner's risk rate or railway risk rate, hauled over the siding during the time such wagons are in transit or remain on any part of extension of the siding at or beyond the point of interchange.

(d) Unless a Goods Clerk representing the Railway Administration is employed at the siding empowered to effect delivery, their wagons will not be placed in the siding until delivery is effected at the serving station. In the event of the Applicant and other co-users of the siding failing to effect delivery within the prescribed free time after the arrival of the wagons at the serving stations, the usual demurrage charges shall begin to accrue on such wagons thereafter, the free time being granted only once.

(e) The Applicant shall at all time permit any person appointed by the Railway Administration to inspect the loading and unloading of wagons of the said siding (Colored red & Green).

(f) All goods dispatched from and to the said siding should be loaded and unloaded by the Applicant and other co-users of the siding at their own cost utilizing their own labour for which railway would not be responsible for any aspect of the employment and working.

17. **Working of Siding** : The Applicant shall provide labour for and bear the cost of all operations on the siding. The Applicant shall be responsible for the strict compliance by himself and his employees and agents of all rules, regulations and standing orders made by the Railway Administration from time to time for the working of sidings and for all accidents, loss or damage that may ensue or be caused by reasons of negligence or non-observance of such rules, regulations and orders. It shall be the duty of the Applicant to obtain from the Railway Administration authentic copies of all such rules, regulations and orders aforesaid and to see that his employees and agents working in connection with the siding are made and kept acquainted with the same.

18. **Applicant responsible for damage or injury to person or property** : The Applicant shall be entirely responsible for all property of the Railway Administration during the time the same shall remain on any part or extension of the siding at or beyond the point of interchange and shall make good on demand all loss of or damage to the engines, damages and deficiencies of rolling stock (Railway wagons) or other property of the Railway Administration from any cause whatsoever except sole negligence on the part

of the staff of the Railway Administration or act of God or war or other acts or circumstances for which the Applicant is not responsible. Further, in case of a derailment, Railways shall bear the cost of re-railing of engines and rolling stock except when the derailment has been caused by any obstruction caused by the siding owner or an act of negligence on their part Applicant , however, would bear the cost for repairs to the siding necessitated by such derailment.

The Applicant shall also indemnify the Railway Administration against any loss due to damage, injury or death caused to any Railway servant while working in connection with the Private siding.

19. **Railway Administration's Rights regarding use of the siding:-** In addition to any other rights, powers and liberties herein provided for, the Railway Administration shall have the following rights, powers and liberties, over and in connection with the siding or any extension or part thereof, namely -

(a) To use the siding or any extension or part thereof for any purposes of the Railway Administration free of charge or any remuneration to the Applicant in respect of such use.

(b) To connect or allow to be connected with the siding or any extension or part thereof any other siding or sidings branching or extending there from which may have been constructed or which may hereinafter be constructed by or under the authority of the Railway Administration for any other person or persons whomsoever or for the purpose of the Railway Administration and to make or allow such alterations as may be necessary to effect such connection.

(c) To use or to permit the use of the siding or any extension or part thereof for the traffic if any person or persons other than the Applicant and to work traffic over the siding or any extension or part thereof to and from any other siding or sidings or branches or extensions there from which may be constructed as aforesaid jointly with the traffic of the Applicant upon payment by such person or persons to the Applicant of either such portion of the cost originally paid by the Applicant to the Railway Administration, in respect of the land and sub-grade work or such tollage for such use as aforesaid as shall be decided by the General Manager for the time being of the Railway Administration or such other Officer as may be nominated by him whose decision shall be final, conclusive and binding on the Applicant as to whether a portion of the aforesaid cost shall be payable and if so, the amount thereof or whether a tollage shall be payable and if so, the amount or rate thereof.

The Railway Administration shall collect such proportionate cost on behalf of the Applicant but shall not be responsible for collection of tollage for and on behalf of the Applicant, but the Applicant may enter into agreement with the person or persons who has/have been permitted the use of Siding or part thereof by the Railway Administration on the payment by the latter of tollage.

The use of the Siding or any extension or part thereof by the Railway Administration or by other persons shall be so conducted in such manner and to such extent as to interfere as little as possible with the free use of the siding by the Applicant whose traffic shall have precedence.

(d) To refuse supplies of wagons or other rolling stock for the Applicant to any siding or sidings constructed for any other person or any branches or extensions or parts thereof over which the Applicant may be allowed to work traffic jointly with such other person or otherwise in the event of non-payment by the Applicant of any sum or tollage which the Railway Administration may decide shall be payable by the Applicant or in the event of non-compliance by the Applicant with any directions or requirement of the Railway Administration with regard to the use of working of the siding or any branch or extension thereof or any other siding branch or extension whether constructed for the Applicant or otherwise including the commission or omission of any act, matter or thing which may interfere with or inconvenience the Railway Administration in the proper working thereof.

20. <u>Gauge Conversion of the existing Private sidings :</u>

(a) The Railway Administration may whenever they shall think proper convert the entire portion of the said siding (colored red and green on the said plan) or part thereof into Railway or Assisted siding by giving to the Applicant six month's notice of their intention so to do on payment of such costs to the Applicant as would be considered reasonable by the Railway Administration at the time of conversion. The decision of the General Manager of the Railway Administration on the amount to be paid shall be final and binding on the parties.

The applicant shall not raise any objection to such conversion and shall execute in the standard forms such agreements as may be considered necessary by the Railway Administration, in the altered circumstances, failing which the Railway Administration will have the right either to suspend the siding facilities granted to the holder or to terminate the agreement by giving one month's notice in writing.

(b) Wherever gauge conversion results in MG/NG private siding being cut off, the siding can be converted to BG apportioning the cost of conversion in terms of provision of Engineering code relating to assisted sidings , provided the investment made by the Railway is financially viable with a minimum ROR of 14% or such ROR as fixed by Railways from time to time vis a vis traffic offered by the siding in the last 24 months. The siding owner shall have to maintain the traffic level of the preceding 24 months based on which the ROR was calculated, at least for 24 months after opening of the siding for commercial operation. In case, siding owner fails to offer such level of traffic, he/they shall reimburse the cost of gauge conversion. Also siding owner will furnish a Bank Guarantee (B.G) for the period of 24 month(period to be reckoned with from the date of commercial operation) for the amount borne by the Railway. The B.G can be encashed by the Railway in the event of failure of siding owner to meet the traffic level as mentioned above. Where it is not financially justified, the siding owner will bear the full cost or the siding will be closed.

(c) The Permanent Way and other materials released from the gauge conversion siding will be taken over by the Railways to be suitably used/disposed off, giving due credit to the private siding owner, which would be decided by the Railway.

(d) The relevant charges for maintenance, of those converted private sidings shall be refixed and recovered from the applicant as per extant rules for private sidings

21. **Applicant not to transfer rights** : The Applicant shall not be entitled to assign or transfer or sublet or permit to be used or enjoyed by any other person in any manner whatsoever any of the rights or benefits conferred upon the Applicant by these presents and any purported assignment, transfer or subletting or permission shall be void and of no effect. Provided also that in the event of any other person being permitted by the Railway Administration to use the siding on the Applicant's request or otherwise, the Applicant shall remain responsible to the Railway Administration for all the charges and obligations under this Agreement.

Provided, however, that if the Applicant shall desire to transfer the Applicant's Works to any person or if the Applicant being a Company shall go into liquidation and such intended transferee or the liquidator of the Company shall desire the use and benefit of the siding than subject to the under mentioned conditions being complied with, the Railway Administration may at its discretion on the written request of the Applicant and of the intended transferee or liquidator made prior to the transfer or within one month after the commencement of the liquidation as the case may be, and after production by the transferee of the registered Deed of Transfer of the Applicant's Works or after proof by the Liquidator of his intention to carry on the Company's business for the purpose of the liquidation proceedings, allow the transferee or liquidator the use and benefit of the siding. The conditions above mentioned are the following:-

(i) That the liquidator shall be approved by the Railway Administration but such approval will not be unreasonably withheld.

(ii) That the liquidator shall duly sign and register a Private Siding Agreement in the same form as these presents so far as then applicable or in such other form as the Railway Administration may then require.

(iii) That the Applicant, Railway Administration and transferee shall duly execute an agreement of assignment as may be prescribed by the Railway Administration.

22. **Power to terminate agreement if traffic insufficient** :

(a) Notwithstanding anything contained in this Agreement the Railway Administration shall be entitled, in the event of the Railway Administration being of the opinion that the Applicant's traffic over the siding is insufficient to justify the retention of siding by the Applicant, of which the Chief Operations Manager/Chief Commercial Manager of the Railway Administration will be the sole judge, to terminate this Agreement by giving

to the Applicant not less than 6(six) month's notice in writing of the Railway Administration's intention to terminate this Agreement and on the expiry of such notice, this Agreement shall stand terminated.

(b) The termination of this Agreement under the provisions of this Clause shall be without prejudice to any rights of remedies to which the Railway Administration will be entitled to in respect of any acts, matter or things arising before such termination.

23. **Power to close the portion of the siding within Railway land colored red in the annexed plan or work it for public traffic** : In the event of the Railway Administration deciding in the public interest to close the siding or any part or extension thereof or to work the siding or any part or extension thereof for public traffic as part of the Railway system (the decision of the Railway being final in this case and the service of the notice as hereinafter stated shall be conclusive evidence of the same) the Railway Administration may terminate this Agreement by giving to the Applicant 6 (six) month's previous notice in writing of such decision and on the expiration of such notice this Agreement shall terminate.

Provided, however, that in such event the Railway Administration shall at their option either construct for the use of the Applicant at the cost of the Railway Administration a suitable siding in lieu of the siding or the portion or extensions thereof so closed or worked for public traffic or furnish the Applicant with facilities for his traffic equivalent to those supplied to him by the siding or such portion or extension thereof but if neither of the foregoing courses shall be found by the Railway Administration to be practicable (the decision of the Railway being final in this case) the Railway Administration may pay to the Applicant the compensation specified below.

The cost of the siding (both sub-grade and super grade works) originally paid by the Applicant less depreciation @ 5% (five) per year upto 20 (twenty) years after the date of completion of the work. After expiration of 20 (twenty) years no refund of cost of any part of the work shall be payable.

24. **Power to stop traffic and to terminate agreement in certain events** : The Railway Administration shall have the absolute right to refuse at any time to allow their rolling stock to go on or be used upon the siding or any part or extension thereof and shall also be entitled to determine this Agreement at any time after the happening of any of the following events:-

(a) In the event of the Applicant failing to deposit within the time fixed for the purpose any sum or sums required to be deposited under the provisions of these presents or according to any direction of the Railway Administration.

(b) In the event of the Applicant failing to pay any other sums payable to the Railway Administration under this Agreement or any other charges payable to the Railway administration in respect of the siding or the use thereof within one month after the due date of payment or in the event of a due date not being specified then within one month after service of a written demand for payment.

(c) In the event of the Applicant failing to comply with any requisition of the Railway Administration to remove or repair any defect which, in the opinion of the Railway administration, may endanger the working and safety of the siding within such time as shall be fixed by the Railway Administration for the purpose.

(d) In the event of the Applicant ceasing for a consecutive period of 3(three) months to use the siding or any part for extension thereof for the Applicant's own traffic in connection with the Applicant's Works.

(e) In the event of the Applicant contravening the provisions of Clause 15 hereof.

(f) In the event of the Applicant failing to observe or perform any other obligation on his part herein contained.

(g) In the event of the siding becoming dangerous or defective by reason of any act of God or other act or circumstances for which the Railway Administration is not responsible.

(h) In the event of any branch line, siding or part or extension thereof connecting the siding or any part or extension thereof with the ..... Railway system becoming dangerous or defective for any reason whatsoever and whether such branch line, siding, part or extension shall belong to the Applicant or to any third person.

(i) In the event of any branch line, siding or any part or extension thereof connecting the siding or any part or extension thereof with the _____ Railway system being closed by the Railway Administration under any powers which the Railway Administration may possess whether by status or by Agreement with third persons or closed by order of the Government of India or any State Government.

The Applicant shall have no claim whatsoever against the Railway Administration in respect of any refusal by the Railway Administration to allow their rolling stock to go on or be used upon the siding or any connected siding or branch line in any of the aforesaid events.

Provided always that on the happening of any of the events mentioned in Sub-Clauses(a), (b), (d), (e) and (f) the Railway Administration shall not exercise the power conferred upon it by this Clause unless 14 (Fourteen) days' previous notice has been given in writing requiring the Applicant to comply with the demand or requisition, as the case may be, of the Railway Administration and the Applicant has failed to comply with the same within the time specified in such notice.

No notice shall be required to be given in the cases specified in the other sub-clauses of this clause.

25. **Termination of Agreement on Death, Insolvency, etc.:** This agreement may be determined by the Railway Administration without prior notice at any time after the happening of any of the following events:-

(a) In the event of the death of the Applicant, if he is an individual person. In the event of a partition of the Joint family properties, if the Applicant is a Joint family governed by the Mitakshara School of Hindu Law.

(b) In the event of dissolution of partners either by act of parties or by order of Court if the Applicant is a firm or other association or body of individuals.

(c) In the event of dissolution of partners either by act of parties or by order of Court if the Applicant is a firm or other association or body of individuals.

(d) In the event of the Applicant becoming insolvent or going into liquidation either voluntarily or under an order of a competent Court.

(e) In the event of the Applicant's interest in the works becoming wholly or partially vested in some other person.

(f) In the event of the Applicant contravening the provision of Clause 21 hereof.

26. <u>Consequence of termination under Clauses 22, 23, 24, 25 & 27:</u>

On termination of this agreement under provisions of clauses 22, 23, 24, 25 and 27 thereof the Railway Administration shall be entitled to disconnect from their Railway the portion of the said siding within the Railway land (colored red on the said plan) at the cost of the Applicant and take up and remove the same and the appliance, connected therewith and dispose of the materials thereof as they may think fit rendering to the Applicant surplus (if any) to arise from such disposal after first defraying and reimbursing there at all costs and expenses on and incidental to such taking up, removal and disposal and all sums owing to them by the applicant under the terms of this Agreement or for freight or carriage. Provided always that the Railway Administration shall at all times have lien on the portion of the said siding within the Railway land (colored red in the said plan) and appliances connected therewith and materials thereof for all sums owing to them from the Applicant under the terms of this agreement or for freight or carriage. The Applicant shall have no claim whatsoever against the Railway Administration in respect of termination of this agreement whether under any of the provisions of those presents or in any manner not provided for by those presents.

27. <u>Agreement to bind Applicant until terminated by the Railway Administration</u> :

Until terminated by the Railway Administration or unless and until the person or persons in whom the entire rights and interests of the Applicant have vested and with whom the Railway Administration has agreed to enter into a Private Siding Agreement has executed and registered such Agreement in the same form as these presents or in such other form as the Railway Administration may require as provided in Clause 21 hereof, this Agreement shall be binding upon the Applicant and the successors in title or interest of the Applicant in the Applicant's Works.

(i) Provided that the Applicant may, by giving 6 (six) months' notice to the Railway Administration discontinue the use of the siding. In such event, the Applicant shall not be liable for the payment of maintenance and other charges under the Agreement for the period subsequent to the date of expiry of the said notice, but nevertheless all other obligations under the Agreement shall be binding on him.

(ii) Provided further that the Railway Administration has the right without assigning any reason to terminate this Agreement on 6 (six) months' notice.

28. **Applicant to give vacant possession of land within a month of termination** : On termination of this Agreement the Applicant shall remove their materials from the land of the Railway Administration and give vacant possession of the same to the Railway Administration within one month.
Provided that if the Applicant fail to remove their materials from the land of the Railway Administration within the time specified by the Railway Administration, the same shall be removed by the Railway Administration and the cost of such removal be realized from the Applicant either from their deposits or by sale of the Applicant's own property within such land of Railway Administration or by any other means.

29. **Right to charge interest on money due hereunder to the Railway Administration** : Notwithstanding anything contained in the foregoing Clauses of this Agreement the Railway Administration shall have the right to charge and recover from the Applicant interest at such rates as may be fixed by the Railway Administration from time to time on any or all sums payable by the Applicant under the terms thereof if such sums are not paid within one month from the due date and if no such date is fixed, within one month from the date on which a written demand is made by the Railway Administration.

30. **Right of deduction of money due to the Railway Administration** : The Railway Administration shall have the right to deduct from any amount which may become payable by the Railway Administration to the Applicant or to the legal representative of the Applicant any money due from the Applicant to the Railway Administration under these presents or for freight, haulage or other charges or otherwise in connection with the construction, maintenance or working of the siding.

31. **Service of notices on Applicant** : The Applicant shall maintain a proper office to which all letters, notices, demands and other communications intended for the Applicant may be sent and every notice, demand or other communication which shall be delivered at or sent by Registered Post to such office shall for all purposes whatsoever be deemed to have been validly and effectively delivered to the Applicant.

32. **Exercise of powers** : Subject as otherwise provided in this agreement, all notices to be given on behalf of the President of India and all other actions to be taken on his behalf may be given or taken on his behalf by the Railway Administration; the agreement signing authority or his authorized representative.

33. **Alteration/variation of the agreement** : Except as hereby provided any verbal or written arrangement abandoning, varying or supplementing this Agreement or any of the terms hereof shall be deemed conditional and shall not be binding on the Railway Administration unless and until the same is endorsed on this agreement or incorporated in a formal instrument and signed by the parties hereto and till then the Railway Administration shall have the right to repudiate such arrangement.

34. **Arbitration** : "In the event of any dispute or difference of opinion between the parties as to the respective rights and obligations of the parties hereunder or as to the true intent and meaning of these presents or any articles or conditions thereof arising such dispute or difference of opinion (except the matters regarding which the decision has been specifically provided for in this agreement) shall be referred to the an arbitral tribunal consisting of atleast 3 members to be appointed by the General Manager,_____ Railway for the time being, and his decision shall be final conclusive and binding on the parties. For the purpose of this Agreement, the General Manager will mean the head of the _____ Railway Administration.

If one or more of the arbitrators appointed by the General Manager resigns from his appointment as an arbitrator or vacates his office, or is unable or unwilling to act so for any reason whatsoever or dies, the General Manager will have the power to appoint a new arbitrator to act in his place. Such arbitral tribunal shall be entitled to proceed with the reference from the stage at which it was left by the previous arbitrator.

The arbitral tribunal may from time to time, with the consent of parties_____ to these presents enlarge time for making and publishing the award"

35. **Cost of execution of agreement** : All expenses in drawing up the Agreement and the cost of Stamping and registration shall be borne by the Applicant. "Money receipt obtained from the Registration Office should be handed over to the Railways for collection of registered agreement which shall remain in the custody of Railways. Any charges, if levied for collection of registered agreement, shall also be borne by the Applicant.

36. **Agreement in force from** : The agreement shall be deemed to have come into force on and from_____

37. **Head Notes** : The head notes herein are for the convenience of reference only and shall not affect the construction of these presents.

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IN WITNESS WHEREOF the parties to these presents have set and subscribed their respective hands and seals hereunto on the day and year first above written

Signed sealed and delivered for and on behalf of

President of India by.....

the.....

of the .....Railway

Administration in the presence of .....

.....

Signed and delivered by.....

.....

.....

In the presence of .....

.....

(1) Signature.....

Name.....

Occupation.....

Address.....

.....

Witness

(2) Signature .....

Name.....

Occupation.....

Address.....

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Dated the ..... 20.....

BETWEEN THE

PRESIDENT OF INDIA AND

.....

.....

PRIVATE SIDING AGREEMENT

REG:

....Siding

at Kilometer.....

Off.....