

Section D

Master License Agreement

SECTION D

**MASTER LICENSE AGREEMENT
Between**

_____ **Railway**

And

The licensee

Date: _____

SOUTH EASTERN RAILWAY

No: C-130/Catg/ADA/18

THIS MASTER LICENSE AGREEMENT FOR CATERING STALL (SMU) IS EXECUTED AT SR.DCM OFFICE/ADRA ON THIS DAY OF 2018.

BETWEEN

The President of India, acting through the Sr. Divisional Commercial Manager/Adra, S.E.Railway, (hereinafter referred to as “Railway” which expression shall, unless repugnant to the meaning or context thereof, be deemed to mean and include its successors, permitted assigns) as party of the First part;

AND

WHEN LICENSEE IS AN INDIVIDUAL: A) Sri. S/o- carrying o business under the name and style of Which is proprietorship firm at Railway Station which in the town of (herein after called the licensees).

WHEN LICENSEES IS COMPANY: B) M/S..... a company incorporated under the laws of Indian Companies Act and having its registered office at laws of Indian Companies Act and having its registered office at in the town of(hereinafter referred to as “Licensee” which expression shall, unless repugnant to the meaning or context thereof, be deemed to mean and include its such defined affiliates as set forth herein this agreement, successors, permitted assigns and affiliates of Licensee) as party of the other part;

WHEN LICENSEES ARE REGISTERED AS PARTNERSHIP FIRM: C) 1. Sri S/o 2. SriS/o All carrying on business on partnership under the firm name and style ofat in the town of(herein after called the licensees) of the other part ‘Railway’ and “Licensee” shall hereinafter be collectively referred to as ‘Parties’.

NAME OF THE NOMINEE: Sri..... S/o-..... Age.....Relation

WHERE AS:

- A.** Railway has mandated under the Catering Policy-2017 to improve, inter-alias, the quality of catering services for providing food and beverage services to passengers.
- B.** The Licensee, inter-alias, is currently engaged I the business of catering services.
- C.** Railway, pursuant to Bid Number.....dated.....floated a bid for the license for “**Provision of Catering Services at Special Minor Unit (SMU) number.....at Station for..... Stall**”.
- D.** On the basis of the evaluation of the various bids received by Railway, including the bid response by the Licensee, Railway has confirmed to the licensee that it is established as the ‘Selected Bidder’ on the basis of the commercial and technical evaluation;
- E.** In terms of the Bid, the submissions of the Licensee and such other subsequent discussions between the Parties, the Parties hereby agree to confirm the license arrangement on such terms and conditions as set forth herein, after regarding the requirements of the Bid as the sacrosanct basis for the arrangement.

NOW THEREFORE, IN CONSIDERATION OF THE MUTUAL COVENANTS AND UNDERSTANDINGS HEREIN SHARED BETWEEN THE PARTIES, THE PARTIES HEREBY AGREE AS FOLLOWS:

ARTICLE- 1: SCOPE OF THE ARRANGEMENT

- 1.1** The parties agree that the scope of services shall be principally to operate, manage and supply catering services on the SMU from the commencement date of operations. Railway will provide space for erecting the stall. The commencement date of license will be the date of commencement of sale after erection of stall, or 30 days from the date of received of communication informing provision of space from Railway, whichever is earlier.
- 1.2** This Agreement confirms and establishes that the scope of the arrangement between the parties shall be governed by the provisions of Annexure 1 (scope of services to be rendered by the Licensee).
- 1.3** It is agreed by the Licensee that the norms with regard catering charges payable to License for providing catering services on the SMU are also subject to the pre-determined prices as set forth in **Annexure II** of this Agreement. The Licensee also hereby confirms and acknowledges that Railway shall have the absolute right and discretion to change and modify the prices set forth in **Annexure II** without any need for prior discussion with the Licensee and the decision of Railway shall be strictly enforced by the licensee during the terms of this Agreement.

ARTICLE -2: COMMENCEMENT OF OPERATION UNDER THE LICENSE

- 2.1** Pursuant to the scope of services to be provided by the Licensee, the parties agree that the plan for the commencement of operations shall be undertaken by the parties. It shall be the duty and the exclusive obligation of the Licensee to propose the plan for commencement of operations which shall be subject to the approval by Railway. Any changes suggested by Railway in the proposed plan shall be also duly implemented by the Licensee prior to commencement of operations. Howsoever, the licensee shall commence operation as lead down in Article-1.1 of this license agreement.
- 2.2** The Licensee hereby undertakes that Licensee shall be bound to comply with all submissions, commitments & representations made in response to the Bid unless agreed otherwise in this Agreement.

ARTICLE -3: TENURE OF THE AGREEMENT

- 3.1 The Tenure of the Agreement will commence on the Commencement Date, as provided in Article-1.1, as Five (05) years only subject to the provisions of Article -9 and Article-17 herein below, if not terminated.
- 3.2 There will be no extension/renewal.

ARTICLE - 4: FINANCIAL TERMS AND CONDITIONS

4.1 Collection of Revenue by the licensee

The licensee is authorized to collect revenues (inclusive of tax) on issue of computerized billing for all items sold in the unit, directly from passengers in consideration of having rendered catering services on the GMU. The licensee shall also ensure computerized billing for all the items sold in the unit and the licensee shall provide the facility for cashless transaction viz. POS/Swipe machine, BHIM. Mobile Wallets Bharat QR code any new scheme/tools/instruments introduce by Government of India or Ministry of Railways for promoting cashless transaction etc. compulsorily available in the unit.

4.2 License Fee

- (a) The License Fee, for the entire duration of License is Rs.-p.a. **X = Rs./-** (Rupeeshereinafter 'License Fee'). The annual breakup of the license fee will be as follows:

First Year Rs...../- (Rupees.....) only.
Second Year Rs...../- (Rupees.....) only.
Third Year Rs...../- (Rupees.....) only.
Fourth Year Rs...../- (Rupees.....) only.
Fifth Year Rs...../- (Rupees.....) only

- (b) In consideration of the provision of the services and the Bid submissions of the Licensee, the Licensee shall be pay to Railway an agreed sum of annual License Fee every year on pro-rata basis for the entire duration of the license.
- (c) The licensee (Selected bidder) shall pay the annual license fee within 15 days on receipt of LAO for the first year of license.
- (d) The Annual License Fee shall be in advance for each year fifteen (15) days prior to the commencement of each year of the license, from second year onwards.
- (e) In consideration of the award of the License to the Licensee, the Licensee shall be liable to pay Annual License fee. The license fee will be fixed for first three years and in the fourth year it will be enhance by 10%. License fee for the fourth and fifth year will remain same. There will be no other increase in the License Fee during the tenure of contract (including in case of revision in menu and tariff), other than this increase of 10% in the fourth year.
- (f) The License Fee payable to Railway by the Licensee shall be net of the deduction of tax at source (TDS), if applicable, under the governing law from time to time during the tenure of Agreement.

- (g) There will be no separate charges payable towards rent for building/land, vender's fee and conservancy etc., except electricity and water charges, which will be based on actual consumption.
- (h) The licensee will be required to pay all the charges as per the contract agreement and all statutory duties / charges/ levies/taxes,, etc.(including GST) would also be borne by the licensee as and when due or whenever any new tax is notified.

4.3 Failure / Delay in deposit of License Fee

Without prejudice to any other right that may be available to Railway in this Agreement or otherwise, any delay in payment of license fee shall attract interest **@18% per annum**, calculated for the number of days of default. Railway shall terminate the license, in case the licensee fails to make payment within 90 (Ninety) days of due date.

4.4 Payment of taxes

The tariff is inclusive of taxes, Licensee, thus, agrees that all taxes payable on account of the grant of license including GST etc. shall be borne by the Licensee exclusively and that the Railway shall not be responsible towards the same at any time during the term. Furthermore, in the event that any new tax is imposed or an existing tax enhanced under a governing law upon the services/deliverables of the Licensee, then the licensee, will be permitted to collect the new/revised tax from the passengers, the liability of payment of Tax to the Government agency shall be also borne by the Licensee exclusively.

4.5 Mode of Payment

Any payment payable by the Licensee to Railway under this Agreement shall be paid through the Licensee's own account vide demand draft or banker's cheque made in favour of FA & CAO/GRC payable at Kolkata.

4.6 Recovery of outstanding dues

Notwithstanding anything contained in this Agreement, the Railway shall be at liberty to receive any payments /outstanding dues including penalties against the Licensee, in any of the contracts over Indian Railway entered in to by the license (an individual licensee includes a partnership firm in which the individual licensee is a member), from the Security Deposit provided by the Licensee after which Railway shall communicate to the Licensee of such deductions. In such an event, the Licensee shall be obligated to ensure that the Security Deposit is restored to its original value within seven (7) working days from such deduction failing which the same shall be deemed as material breach by the Licensee and entitle the Railway to terminate this Agreement.

ARTICLE – 5: SECURITY DEPOSIT

- 5.1** As mentioned elsewhere in this Agreement, the Licensee shall furnish to Railway (in the manner and form acceptable to Railway) a security deposit for an amount **equal to 10% (ten percent) of the total license fee** for the entire duration of the License, 15 (fifteen) days on receipt of LAO.
- 5.2** Security Deposit shall be paid in the form of Bank Draft / Performance Bank Guarantee (PBG)/ Cash (deposited with Chief Cashier of the Railway). The said BG shall be paid for in the manner as set forth in the Bid. The said PBG shall given in format provided at **Chapter-1 of (Annexure –6)**, valid for the Term of the Agreement and a period extending 6 months beyond the Term of the Agreement. Security Deposit will be returned within 90 days after the contract has been completed successfully; the unit has been vacated by the Licensee and handed over to Railway as per para 6.25 of the agreement, and there are no dues pending on the Licensee.
- 5.3** Notwithstanding anything mentioned in this Agreement, upon any default or breach of obligations by the Licensee under the Agreement, Railway may at its sole discretion draw upon the Security Deposit to satisfy its claims against the Licensee by imposition of Penalties or otherwise, irrespective any other remedy under this Agreement.

ARTICLE – 6: RIGHTS AND OBLIGATION OF THE LICENSEE

6.1 General

- (a) The Licensee hereby agrees to fulfill all technical and commercial requirements set forth in the Bid as well as all the commitments made in its response to the Bid.
- (b) Without prejudice to the aforesaid, it is represented by the Licensee that all services will be performed in a professional manner by its personnel and that the said performance by Licensee shall be in accordance with the 'Desired Performance Levels' as described in Special Condition of Contract-II and as communicated by Railway from time to time.
- (c) The Licensee warrants that during the Term of this Agreement, the Licensee shall at all times be responsible for ensuring that the catering service at the SMU is undertaken with utmost care and diligence.
- (d) The Licensee also hereby assures Railway of the quality, suitability and the warranties of all the food and related services under the Agreement, over and above the 'Desired Performance Levels' assured to Railway. The Licensee represents and warrants that the principle liability for the quality, suitability and warranties for catering service shall be of the Licensee and that all products will be in conformity with the requirements of the law as well as those stipulated by Railway from time to time. The Licensee hereby covenants that no exception to the liability, guarantee & assurance of the Licensee shall apply with regard to food and the services thereof.

6.2 Certificates / Permissions

The Licensee shall obtain necessary certificates / permissions required by law such as food license, FSSAI Certification, test reports for various food items, etc. or as required as per the local regulations from the competent authorities. In case of any offense or failure to obtain the necessary certificates / permissions, the Licensee will be solely responsible for its penalty and consequences.

6.3 Display of menu and tariff, etc.

The Licensee shall exhibit menu, tariff and list of food items to sold in the SMU as may be agreed upon from time to time by the Railway. The Licensee shall also ensure that printed menu cards bearing the name of the concerned Railway should always be available at the SMU and provided to the passengers on demand. The Licensee shall seek prior approval of the Railway before printing of menu cards. There shall be compulsory and prominent display arrangements of tariff in the unit.

Display of weight, name of manufacturer/contractor, date of packing, veg/non-veg. code, price, along with scannable QR code (if possible) on all cooked food items to be sold by the static catering units will be mandatory.

6.4 Sale of items with the Railway prior approval

The Licensee shall not sell items other than those approved by the Railway. If sale of unauthorized items is directed in contravention to approved items, Railway may seize such items and the unauthorized seized items shall be disposed off as per policy of the Railway in addition to any penalty to be imposed for such contravention.

6.5 Right of user only

The Licensee will only provide the catering services on the SMU and will have the right of user only on leave and license basis. The cost of Construction/Fabrication of Stall will not be refunded at any time.

6.6 Compliance of Food Adulteration Act and other statutory laws

The Licensee shall be responsible for compliance with applicable laws such as Food Safety & Standard Act, 2006 or any other amendments thereto. There shall be compulsory and prominent display arrangements of FSSAI certification in the unit.

- (a) The Licensee shall be responsible for compliance with applicable laws such as GST, provident fund, labour laws or any other applicable laws for the time being in force.
- (b) The Licensee shall submit a monthly list of staff employed by him/her to the Railway Administration and the list should also contain the details of Name of employee, Aadhar no., Savings Bank Account number, EPFO Number, Group Insurance No., if any , PAN CARD No., ESIC No.
- (c) The licensee shall provide the employee with a printed salary statement giving all details of salary along with deductions and net salary payable along with bank account number to which salary has been credited.
- (d) The employee of the licensee should have a valid Medical Certificate of fitness and Police clearance certificate at all times.
- (e) Railway shall not be responsible for compliance of any laws applicable with respect to carrying out the catering activity by the licensee relating to catering, tax, its employees or any other related matter. The Licensee shall be solely responsible for following all the laws applicable in this regard. In case of any harm to Railway, it shall be indemnified by the Licensee.

6.7 Maintenance of proper hygiene, cleanliness, etc.

The Licensee shall be responsible for ensuring the quality and quantity, maintaining proper hygiene and cleanliness while handling raw materials, preparation, packaging, supply, service, etc. of food/meals in accordance with the parameters specified herein and in the bid documents. Licensee shall abide by the instructions issued by the railway from time to time in this regard.

6.8 Ceiling Limits

At time of awarding and renewal of license, Railway shall ensure that the ceiling limits as prescribed in the Catering Policy-2017, para-13 and as amended from time to time are complied with. The Licensee shall submit an affidavit declaring the details of the catering units held by him in division in the prescribed format at the time of bidding and Railway shall maintain a data base for verifying these details at the time of award of license, It will be notified through Railway websites and also reconciled at regular basis. The current ceiling limit is a maximum of 5 (five) units per Division.

6.9 No unlawful/illegal activity

The Licensee and /or its staff shall not carry on any unlawful, immoral or illegal activity in the GMU and/or at the station(s). It is clarified that if the licensee suffers any loss or damage on account of the Licensee being restrained by the Railway or any other competent authority for indulging in illegal activities or any contravention of any law, the Licensee shall not be entitled to any compensation whatsoever.

6.10 Provision of suggestion/complaint book

The Licensee shall keep a suggestion/complaint book at a conspicuous place where the passengers can register their suggestions/complaints without any difficulty. This suggestion book shall be serially numbered and pre-authenticated by the Railway.

6.11 No use of plastic material

The Licensee shall, in rendering catering services, not use plastic material but eco-friendly/biodegradable packaging material for supply of food items, good quality glasses/paper cups for serving tea/coffee, etc.

6.12 Collection of garbage

Licensee shall be responsible for availability/provision of adequate number of garbage bins at appropriate places. Licensee shall also ensure to place bio-degradable bags in garbage bins for easy disposal and proper handling. These should be cleaned outside the production area. Licensee shall avoid use of metallic dustbins, which become rusted over a period of time. Segregation of waste should be done as bio-degradable and bio non-degradable. Licensee shall be responsible for disposing the garbage suitably as per the instructions framed by Railway/Division. All garbage bins must be labeled, cleaned and sanitized regularly. All instructions in regard to disposal of garbage issued by Health, Mechanical and Commercial Directorate are to be adhered to by licensees.

6.13 Issue of proper bills, etc.

The Licensee shall issue proper bill(s) /receipts(s) against the sale of food items/beverages to the customers of the SMU. The licensee shall also ensure computerized billing for all the items sold in the unit and the licensee shall provide the facility for cashless transaction viz. POS/Swip machine, BHIM, Mobile, Wallets etc. compulsorily available in the unit.

6.14 Cooking in the SMU

Except or otherwise provided in the bid document and/or this Agreement, the Licensee shall not cook anything in the SMU.

6.15 Ban on sale of products

The Licensee shall not sell/distribute tobacco products, wine, beer or any other alcoholic drink or any other item prohibited by law on the SMU. Further, the Licensee shall not use beef/pork in any form in any food items served to customers.

6.16 Food articles nit to be kept on floor, etc.

- a) The Licensee shall ensure that the catering staff shall not keep any food article on the floor of the SMU. The Licensee shall ensure that the catering staff shall not carry any food item in their pockets/card boxes/mineral water cartons, etc. and only container should be used for these purposes.
- b) The Licensee shall not stock any item outside the stall or on the platform, if found the items will be seized and action will be taken accordingly.

6.17 Presence of Licensee / authorized Manager

The Licensee or a duly authorized and competent Manager appointed and paid by the Licensee shall remain present in person to manage or supervise the business to be carried on under the provisions of this agreement and to ensure that the obligations of Licensee under the Agreement are duly performed and observed. In addition, Licensee or duly authorized and competent Manager, appointed by the Licensee shall remain available at the location mutually decided between the parties for ease of administration of performance of license to the satisfaction of the Railway. The name(s) of the Manager will be advised by the Licensee to the Railway from time to time.

6.18 Staff Uniform, Identity cards, etc.

- (a) The Licensee shall provide distinctive uniforms for catering staff with their identity cards. The style and pattern of the uniform shall be approved by the Zonal Railway/Division. Division shall approve the vending staff employed, the copy of such approval to be available in the stall at all points of time.
- (b) The Licensee shall ensure that the catering staff at all times display the nameplate.
- (c) The Licensee shall ensure that the catering staff to be deployed at the SMU must be well groomed.

6.19 Bonafide Staff of the Licensee

- (a) The Licensee shall not permit anyone except the bonafide staff of the Licensee to man the SMU and ensure that the staff shall not carry any article of any description other than those required for the fulfillment of the obligations contained herein.
- (b) The staff of the Licensee will carry valid authority and medical fitness certificate to be issued by a Registered Medical Practitioner on the request of the Licensee to ensure the staffs handling preparation and service of food are not suffering infectious diseases. The Licensee shall ensure that the identification card of the staff should be duly attested by the Railway.

6.20 Enquiry into the antecedents of the Licensee's employees

The Licensee 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/MP/MLA/MLC/Councilor/ Gram Panchayat Sarpanch/1st Class Magistrate /Gazetted Officer and shall issue an appointment certificate (signed by the Licensee) which shall contain a photograph of the employed with his or her left/right hand thumb impression affixed thereon in Printer's ink which he/she will carry with him/her while on duty. The expenses for such verification are to be borne by the Licensee.

6.21 Provision of equipment

The Licensee will arrange his own equipment for satisfactory provision of services.

6.22 Provision of first aid box

The Licensee shall provide and maintain First Aid box for rendering first aid to the catering staff in the SMU and shall provide training to the concerned catering supervisory staff from the medical authorities. The Licensee shall ensure that requisite certificates in this regard should be available with the SMU Manager.

6.23 Maintenance of proper records, etc.

The Licensee shall maintain proper and full records viz., accounts, vouchers, bills, tax, etc. pertaining to the SMU and make it available for inspection by the Railway to ascertain the Gross Sales Turnover.

6.24 Damage to Railway property

The Licensee shall be responsible for any damage caused to Railway property provided arising due to the acts of omission or commission of the staff of the Licensee.

6.25 Handing over of SMU on expiration /termination of the Agreement

Upon expiration or termination of this Agreement the Licensee shall immediately (within 72 hours) vacate the SMU and shall deliver the vacant possession of the SMU to the Railway along with the Railway' fixtures and fittings therein in good condition. In default, the Railway shall be entitled to enter and take possession of the SMU and to lock up the same or remove the furniture or other articles of the Licensee that may be lying there and to dispose of the same by sale or otherwise without being liable, for any damages, and all expenses incurred in connection therewith, shall be deducted by the Railway from the sale proceeds or from the Security Deposit or outstanding dues of the Licensee.

6.26 Information

The licensee shall furnish all information, record, etc. within ten (10) days as may be required by the Railway from time to time, failing which the Railway reserve the right to impose suitable penalties on the Licensee including termination of the Agreement.

6.27 Compliance of instructions

The Licensee shall comply with any other instructions issued by the Railway from time to time as may be necessary to ensure better services.

ARTICLE -7: RIGHTS AND OBLIGATIONS OF RAILWAY

7.1 General

- (a) It is agreed by Railway that the principal obligation upon Railway towards the Licensee under the Agreement, shall be to render assistance (as mutually agreed by the parties) to the Licensee during the finalization of the plan for commencement of operations.
- (b) If the Licensee requires any reasonable assistance from Railway in addition to assistance mutually agreed by the parties, then the same may be conveyed by the Licensee to Railway which request shall not be unreasonably denied by Railway.
- (c) The Railway shall issue authority to the Licensee and its staff for providing services on the SMU.

7.2 Grant of limited rights of advertisement

- (a) The Railway reserve the right to get the food samples/raw materials collected and tested at approved laboratories at the cost of the Licensee.
- (b) The Railway shall have the right to inspect/Check the services provided by the Licensee for reviewing its standards, quality and variety of food Items, disposal systems, etc at any time and may authorize any person or agency for this purpose to access the performance of the Licensee. In case of unsatisfactory performance or complaint of any nature, the Railway will be entitled to initiate the suitable action against the licensee including termination of this Agreement as per the terms and conditions of this Agreement.

7.3 Right to make substitute arrangement in the event of unsatisfactory services, etc. by the Licensee

- (a)** In the event of unsatisfactory service, poor quality of articles, persistent complaints from passengers, and service below the desired performance level or any failure or default at any time on the part of the Licensee to carry out the terms and provisions of the agreement to the satisfaction of the Railway (who will be sole judge and whose decision shall be final), then without prejudice to any other remedy that may be available to the Railway under this Agreement or otherwise, the Railway reserve the right to make any substitute agreement in any manner, it may deem fit at the risk and cost of the Licensee.
- (b)** The Licensee agrees to make good all cost and expenses, if any incurred by the Railway for making the substitute arrangements referred to above.

7.4 Customer's feedback

The Railway shall be entitled to take independent user's feedback to know the level of passenger satisfaction of the Licensee's services.

7.5 Right to resume the possession of SMU

Railway reserves the right to resume the possession of the SMU if required for the purpose of working of the Railway.

ARTICLE- 8: CHANGES IN MENU AND TARIFF

- 8.1** Railway reserves the right to change catering menu and tariff for the SMU at any time after the award of the License. In the event of any such change by the Railway, the Licensee shall maintain the same quality and hygiene standards for preparation, supply and service of food/ meals to passengers on the SMU as it were prior to such change.
- 8.2** In the case of any upward revision in catering tariff, the Licensee shall be allowed to sell food/Meals at the revised rates to the passengers. In this Event, the License fee payable to Railway shall not change.
- 8.3** The Licensee shall sell only the Railway approved PAD items. The weight and the rate of the PAD should not vary from that available in the open market.

ARTICLE- 9: PERFORMANCE LEVEL GURANTEE COMPLIANCE

- 9.1** The Licensee hereby undertakes and represents that it shall adhere to the scope of work as determined in Annexure- I and the 'Desired Performance Levels' as determined in the Annexure -III at all times, during the Term of the Agreement.
- 9.2** The Licensee undertakes and agrees that in the event that the 'Desired performance Levels' are not Complied with, then Railway has the right to impose service level penalties on the Licensee as also set forth in **Annexure-III**.

- 9.3** Without prejudice to the generality of the above Article 9.2, the Licensee hereby acknowledges and agrees that the right for the imposition of penalties by Railway is irrevocable and undisputed & that the Licensee shall not have any right whatsoever to pre-empt Railway from claiming Penalties automatically as and when there are performance level defaults by the Licensee.
- 9.4** For purposes of monitoring & auditing the 'Performance Levels', the parties agree that Railway shall have the sole and exclusive right to audit, independently monitor and assess the performance of the Licensee.

ARTICLE- 10: THIRD PARTY CONTRACTORS AND PROHIBITION OF SUB-LETTING

- 10.1** The Licensee shall not sublet, transfer or assign this Agreement or any part thereof. However, the Railway appreciate that for a license of this nature, the Licensee may have to take services of various suppliers of materials, goods etc. The Licensee may appoint such third party contractors for supply of goods and materials, whose details should be disclosed to the Railway. It is agreed by the parties that no other appointment of third parties by the Licensee shall be permitted.
- 10.2** For the purposes of this Agreement, the prohibition of sub-letting transfer assignment shall be deemed to include but not limited to the following:
- (a)** The licensee shall not delegate or sub-delegate the performance of any of the services under the license except as permitted in this agreement.
 - (b)** The licensee shall not sublet, transfer, assign or allow any entity, personnel or corporation the benefits of this Agreement.
- 10.3** If third parties are appointed pursuant to Article 10.1 under this Agreement, then the Licensee shall at all times remain principally liable towards the Railway and that there shall be no exception to their liability under this agreement. The Licensee will also remain at the sole point of contract regarding all the services during the Term of this Agreement.
- 10.4** If the Railway at any point of time expresses any concerns to the Licensee regarding any third party sub-contractor (appointed under Article 10.1), then the Licensee will comply with the requirements of the Railway forthwith; which may include the direction by the Railway to remove the said sub-contractor, etc.

ARTICLE- 11: PROPRIETARY RIGHTS

- 11.1** For purposes of this Agreement, it is agreed by the parties that the respective proprietary rights Of each party at the time of execution of the Agreement shall remain as the sole and exclusive rights of that party.
- 11.2** If any property of either party is to be used by the other party for purpose of provision of services including, etc. under this agreement, then the said party (owning the property) will grant a limited right to use to the other party for the specific purpose and Term of this Agreement only. The aforesaid license to use shall be restricted for the specific purpose and Term of this Agreement and shall not involve any need for the payment of consideration as the Agreement shall from part and basis of valid consideration for such purposes.

ARTICLE- 12: CONFIDENTIALITY

- 12.1 Parties hereby agree and acknowledge that every aspect of the present Agreement including but not limited to the commercial terms, technical parameters, etc. are invaluable to each party and are to be collectively regarded as part of confidential information.
- 12.2 The Licensee acknowledges that all information, data, material, etc, of its systems and operations shared by Railway with the Licensee, shall be regarded as part of confidential information by the Licensee.
- 12.3 The Licensee agrees that any violation of confidentiality especially with regards to customer data shall constitute material breach for purposes of this Agreement.

ARTICLE-13: AUDIT RIGHTS

- 13.1 Railway being the service beneficiary under the Agreement shall have audit and inspection rights upon the Licensee during the entire Term of this Agreement.
- 13.2 Railway shall have the right to conduct periodic audits on the SMU along with audits of the facilities of the Licensee at regular intervals. Such audits shall include the audit of technical and performance records of the Licensee which may be based on passenger feedback and other parameters set forth by Railway.
- 13.3 In addition to the audit rights under Article 13.2 herein above, Railway shall have the right to audit particular performance records of the Licensee including payment records, etc.
- 13.4 Each audit team of Railway shall be nominated by Railway exclusively and the Licensee shall not be intimated any audit visits by Railway. The location, time, etc. of the audit shall be decided by Railway exclusively and costs relating to the audit shall be borne by Railway. The parties also agree that upon the conclusion of each audit, representatives of both parties are to mutually sign-off on the jointly prepared minutes of each audit.
- 13.5 In the event that any audit by Railway reveals any discrepancy as determined by Railway, the same would then be communicated by Railway in writing to the Licensee, who shall be under obligations to comply with the audit results/ directions of Railway within 30 days of receipt of written communication from Railway.
- 13.6 Railway authorized/prescribed independent third party audit agencies will conduct audit of the catering unit for which this license is issued and the kitchen/s where food is/ are prepared for the catering units for effective quality control. In case of any discrepancy/deficiency reported in the audit report, the Railway will be entitled to initiate suitable action against the Licensee including termination of this Agreement.
- 13.7 Licensee shall be responsible for acquiring requisite ISO certification and the cost related to it, if any.

ARTICLE -14: INSURANCE & INDEMNITIES

- 14.1 During the terms of the agreements, the Licensee will obtain and maintain at its own expense, adequate insurance with regards all its obligations under this Agreement including insurance for workers compensation, life insurance, health insurance, accident & risk insurance, etc. for employees including the catering staff of the Licensee. The Licensee hereby agrees and confirms that Railway shall not be responsible in any manner whatsoever towards claims of the personnel, employees, directors, etc. of the Licensee.

- 14.2** The Licensee agrees to indemnify, hold harmless and defend Railway from any and all losses, claims, actions, damages, liabilities, costs and expenses, including attorneys' fees that may be claimed upon or incurred by Railway due to breach or violation or non compliance of the terms of this Agreement by the Licensee. The aforesaid indemnity granted by the Licensee can be invoked by Railway in any time during the tenure of the Agreement and the Licensee shall comply without any delay, protest or demur.
- 14.3** The Licensee accepts liability, civil and criminal for compensation/ damages in accordance with provision of Consumer Protection Act, 1986 or any statutory modification of the Act or any other law for the being in force for action occasioned by negligence, deficiency of service, imperfect or improper performance by the Licensee, his workman, servants and agents. The Licensee shall indemnify the Railway from and against all payments made under the provision of the said Act or law including all costs. Any money which may become payable by the Railway as aforesaid shall be deemed to be money payable to the Railway by the Licensee and in case of failure by the Licensee to repay the Railway any money paid by it as aforesaid within seven (7) days after the same have been demanded by the Railway, the Railway shall be entitled to recover the same from the Security Deposit. The Licensee shall be solely responsible for consumer complaints and in case of any direction/ judgment from Consumer court(s), the Licensee shall be solely responsible for fulfilling the requirements.
- 14.4** In case the Licensee suffers any loss on account of it being restrained by the Railway or any competent authority for indulging in illegal activities or any contravention of law, the Railway shall not be liable to pay any indemnification / compensation to the Licensee. Railway shall bear no liability in case of loss / damage to the licensee's moveable / immovable property, if any, due to accidents.
- 14.5** The Licensee shall, at all times indemnify the Railway against all claims and penalties which may be suffered by the Railway or its employees by reason of any default on the part of the licensee or its staff in due observance and performance of provision of:
- (a) Workmen's Compensation Act - 1923
 - (b) Employment of children's Act – 1938 and
 - (c) Any other relevant laws applicable for the time being.

ARTICLE -15: EVENTS OF DEFAULT / MATERIAL BREACH

- 15.1** The following event(s) shall be deemed to be the event(s) of default or material breach on the part of the Licensee:
- (a) If the Licensee fails to start catering service within one (1) month from the Commencement date as defined in Article 1.1 of the Master License Agreement.
 - (b) If the Railway finds that the bidder has obtained this license by giving false information/details in the bid document at any time, Railway has the right to annul the license and terminate the license agreement, and debar/black-list the licensee from participating further in allotment of catering units on any zonal Railway/IRCTC, treating the same as material breach of contract.
 - (c) If the Licensee fails to provide satisfactory services as under the License; or
 - (d) If the Licensee fails to adhere to the desired Performance Levels as determined by Railway at any time during the term of the Agreement; or
 - (e) If the Railway receives persistent complaints against the Licensee from the passengers or otherwise; or
 - (f) If the Licensee fails to pay license fee along with interest, if any, to the Railway on or before due dates; or
 - (g) If the Licensee engages in corrupt or fraudulent practices in execution of catering services under the agreement; or
 - (h) If the Licensee fails to provide any information / record within the prescribed time as may be demanded by the Railway from time to time; or
 - (i) If there is any failure or default at any time on the part of the Licensee to carry out the terms and provisions of this Agreement to the satisfaction of the Railway.

ARTICLE -16: PENALTIES

- 16.1** The penalty(ies) that may be levied by the Railway on the Licensee in any of the instances mentioned in Article 15 above shall include but not limited to the following;
- (a) forfeiture/appropriation of the Security Deposit in whole or part thereof, furnished by the Licensee; and or
 - (b) to annul the license and forthwith terminate the License Agreement; and /or
 - (c) debar the Licensee from participating in all catering contract over Indian Railways including IRCTC for a period of five (5) years.
- 16.2** The details of penalties have been explained in Annexure III of this Agreement.

ARTICLE- 17: TERMINATIONS

- 17.1** If party to the other part to the Agreement is subject to liquidation or insolvency under the applicable law, then the party of the first part may forthwith terminate this Agreement by issuing a notice for termination upon such confirmed events having taken place.
- 17.2** The parties agree that ‘Material Branch’ for the Licensee shall also mean (other than those instances set forth in this Agreement), the failure to maintain the desired Performance Levels’ and /or the delay in achieving the commencement Date as described in Article 1.1 and /or non-payment of the minimum license fee by the Licensee in accordance with the provisions herein contained and/or any misrepresentation or violation of the commitments set forth in this entire Agreement or in response to the Bid or the breach or non-compliance by Licensee of its fundamental obligations under this Agreement, such that the breach or non- achievement defeats the object and purpose of this Agreement.
- 17.3** Railway shall also have, without prejudice to other rights and remedies, the right, in the event of ‘Material Breach’ by the Licensee of any of the terms and conditions of the contract, or due to the Licensee’s inability to perform as agreed for any reason whatsoever, to terminate the contract forthwith and get the work done for the unexpired period of the License at the ‘risk and cost’ of the Licensee or in the manner Railway deems fit to recover losses, damages, expenses or costs that may be suffered or incurred by the Railway. The decision of the Railway about the breach/failure on the part of the Licensee shall be final and binding on the Licensee and shall not be called in to question.
- 17.4** Notwithstanding the provisions of Article 17.1 above, Railway or the Licensee may terminate this Agreement without assigning any reason to the Licensee / Railway by giving 6 (six) months prior notice in writing to the Licensee / Railway.
- 17.5** In the event that the Agreement is terminated by either party pursuant to Article 17.1 or by Railway under Article 17.4, then the undisputed payments accruing to Railway shall be due and settled in accordance with the terms of the Agreement until the effective date of termination.
- 17.6** In the event that the Agreement is terminated by the Licensee under Article 17.4, the Railway shall forfeit the entire License Fee paid by the Licensee and invoke the Security Deposit.

- 17.7** In the event that the Agreement is terminated by either party prior to the achievement of the Commencement Date, then the parties to the Agreement agree to stop working on the plan for commencement of operations on the effective date of termination. In the event that the Agreement is terminated by Railway after Commencement Date, then the Licensee acknowledges and undertakes to continue performance of the services under the agreement until the effective date of termination as confirmed by Railway, irrespective of whichever party has terminated the Agreement. However, the effective date of termination shall not be more than 6(six) months from the date of notice. Further, the Licensee agrees to provide service on the same terms as it were being provided during the tenure of the Agreement.
- 17.8** Railway reserves the right to terminate the license, in case the licensee fails to make payment within 90 days of the due date.
- 17.9** In case of any discrepancy/deficiency noticed in the audit report, the Railway will be entitled to indicate to initiate suitable action against the Licensee, including termination of the agreement.

ARTICLE -18: CANCELLATIONS/ WITHDRAWAL/ NON-OPERATION OF THE SMU AND REFUND OF LICENSEE FEE

- 18.1** In the event of permanent cancellation /withdrawal /non-operation of the SMU service by the Railway, this Agreement shall be terminated without any notice or assigning any reason to the Licensee. In such an event the security deposit and the advance License Fee already paid shall be refunded to the Licensee on pro-rata basis.
- 18.2** Except as otherwise provided in the Article, the Licensee shall not make any claim for any consequential loss of business / damages due to permanent cancellation / withdrawal of the SMU by the Railway.

ARTICLE -19: DISPUTE RESOLUTION

- 19.1** In the event of any dispute or difference between the parties hereto as to the construction or operation of this contract, or the respective right and obligations of the parties on any matter in question, dispute or difference on any account, the same will be resolved in terms of the General Conditions of Contract for works of Railways as amended from time to time and as per the provisions of Arbitration and Conciliation (Amendment) Act-2015 and the rules there as amended from time to time, and as per the extant instructions issued by Railway Board.
- 19.2** The award passed shall be final and binding on both the Parties.
- 19.3** It is further clarified that during the resolution of the disputes, the Licensee shall be obligated for the continued performance of its obligations under the agreement until the resolution of the disputes.
- 19.4** The place and language of Arbitration will be decided by Railway Administration.

ARTICLE- 20: MISCELLANIOUS

20.1 Interpretation

This Agreement and the agreement between the parties shall at all times be read along with the terms and condition of the Bid and the response of the Licensee to the Bid. In the event of any interpretation of the provisions of this agreement between the parties, the documents shall be read in the following order of precedence:-

- (i) Railway's latest policies as applicable from time to time;
- (ii) the Articles of this Agreement;
- (iii) the contents of the Annexure(s) to this Agreement;
- (iv) Licensee's response to the Bid
- (v) The Bid

20.2 Relation between the Parties

The Parties to the Agreement are entering into this arrangement as independent contractors, and this Agreement does not bestow either Party the right against the other, as partner, agent principal employer or joint venturer or any other form of legal association.

20.3 Survival

This Agreement along with the Bid and the response of the Licensee collectively constitute the full and complete arrangement between the Parties with respect to the subject matter hereof. The expiration or termination of this Agreement for any reason will not release either Party from any liabilities or obligations set forth herein this Agreement and such Articles (as applicable to the parties) will survive any termination of this Agreement.

20.4 Transfer of License

Transfer of license to the spouse/ legal heir would be allowed only in the event of death of the original licensee. The license shall be transferred in the name of legal heir for the unexpired period of the contract as per General Conditions of Contract (GCC) of Railways. No subletting will be allowed.

20.5 Jurisdiction

This Agreement will be governed by and construed in accordance with the laws of the Republic of India and the Courts at S.E.Railway HQ shall have exclusive jurisdiction in all matters relating to this Agreement.

20.6 Amendments

Any changes or modifications to this Agreement or its Annexure(s) can only be made by a written amendment mutually signed by the Parties.

20.7 Waiver

Unless otherwise expressly provided in this Agreement, a delay or omission by either Party to exercise any of its rights under this Agreement will not be construed to be a waiver.

20.8 Assignment

This Agreement is binding on the successors and permitted assigns of each party; however neither party has the power to assign this Agreement without the prior written consent of the other party.

20.9 Notice

All notices under this Agreement by either party will be in writing and will be deemed to have been duly given if delivered by courier/registered AD Post. All notices under this Agreement are to be addressed as under:

In the case of Railway: The Sr. Divisional Commercial Manager, South Eastern Railway/Adra DRM Building, Post:- Adra , Dist:- Purulia. Pin- 723121.

**In the case of Licensee: Name-
Address:-**

Any change in the aforesaid address of either party shall be immediately informed to the other party by way of a notice as aforesaid.

20.10 Accidents and unforeseen circumstances

Licensee shall supply items to Railways as and when required at the approved rates like accidents/ unusual incidents.

20.11 Force Majeure

In the event of any unforeseen event directly interfering with the operation of license arising during the currency of this Agreement, such as war, insurrection, restraint imposed by the Government, act of legislature or other authority, explosion, accident, strike, riot, lock out. Act of public enemy, acts of God, sabotage, etc., the Licensee shall, within a week from the commencement thereof, notify the same in writing to the Railway with reasonable evidence thereof. In such event of force majeure, if mutually agreed by both parties, the tenure of this Agreement may be further extended for the period during which license was not operational.

20.12 Execution of the Agreement

This Agreement shall be executed/entered only with the Licensee on a non-judicial stamp paper of the value as prescribed by law, and all cost of expenses for registration, stamp duty, etc. thereof shall be borne by the Licensee.

IN WITNESS WHEREOF, THE PARTIES HAVE DULY EXECUTED AND DELIVERED THIS AGREEMENT BY THEIR DULY AUTHORIZED REPRESENTATIVES AS OF THE EFFECTIVE DATE.

RAILWAY

LICENSEE

By:

By:

Title:

S/o-.....

Date: ...

Title:

Date:

IN WITNESS OF:

LIST OF ANNEXURES:

Annexure- I: Scope of Services.

Annexure- II: Price Bid document stating license fee payable by Licensee and Special Condition of Contract.

Annexure –III: Assessment of Performance.

Annexure-IV: NEFT Mandate Form

ANNEXURE – 1 (Scope of Work)

The major components of scope are indicated below:

- (a) The Licensee shall be provided with a SMU name/No.at Station of category of Adra Division.
- (b) The Licensee shall be responsible for providing catering services for items as authorized by Railway from the SMU name At Station.
- (c) Licensee shall set up **Modular Catering Stalls** to maintain uniformity in design and colour scheme as authorized and approved by Railways. The Licensee shall be responsible to display the “Rail Ahaar” logo prominently at all places including the packaging material of food, uniform of waiters and other staff etc. The Licensee will abide by the instructions of Railway in this regard from time to time.
- (d) In case licensee is permitted for sale of packaged drinking water then, it is mandatory for the licensee to sell Rail Neer (PDW –1000 ml) chilled or in such quantities & rates prescribed by Railway from time to time. The licensee will responsible for storing, cooling and distributing ‘Rail Neer’ to the passengers. In case of non-availability/inadequate supply of Rail Neer by Railway, the Licensee shall be permitted to sell only packaged drinking water of brands as approved by Railways.
- (e) The Licensee may be encouraged to provide regional cuisines, dietary and infant foods, food for patients or ailing passengers jain food at tariff approved by Railway subject to authorization from Railway.
- (f) Licensee should provide service across the counter only. No platform vending will be permitted.
- (g) Licensee shall be responsible for availability/provision of adequate number of garbage bins at appropriate places. Licensee shall also ensure to place bio-degradable bags in garbage bins for easy disposal and proper handling. These should be cleaned outside the production area. Licensee shall avoid use of metallic dustbins, which become rusted over a period of time. Segregation of waste should be done bio-degradable and bio non-degradable. Licensee shall be responsible for disposing the garbage suitably as per the instruction framed by Railway/Division. All garbage bins must be labeled, cleaned and sanitized regularly. All instructions in regard to disposal of garbage issued by Health, Mechanical and Commercial directorate are to adhered to by licensee.
- (h) The Licensee shall be responsible for ensuring the quality and quantity, maintaining proper hygiene and cleanliness while handling raw materials, preparation, packing, supply, service, etc. of food/meals in accordance with the parameters specified in Section –C.
- (i) The Licensee shall further be responsible to make adequate arrangements in terms of all equipments and manpower, at its own cost, as per policy directives.
- (j) The Licensee shall depute staff who will be required to manage the catering operations and serve food to the passengers. The number of staff deputed shall not be more than the prescribed by Railway administration. The Licensee shall ensure that the staff deputed on the unit should maintain good conduct, etiquette, personal hygiene, politeness and courtesy, issue computerized bill to passengers etc. The Licensee shall also ensure computerized billing for all the items sold in the unit and the Licensee shall provide the facility for cash less transaction viz. POS/Swipe Machine, BHIM, Mobile wallets, Bharat QR code, any new scheme/tools/instruments introduced by Govt. of India or Ministries of Railways for promoting cashless transaction etc. compulsorily available in the unit. Further, the Licensee shall ensure that the catering staff should be well groomed, wear proper uniforms, badges displaying their names, carry photo identity cards, display at all times. The Railway reserves the right to prescribe a standard uniform for all staff working for SMUs on a station.
- (k) In consideration of the award of the Licensee, the Licensee shall be liable to pay Annual License Fee. The license fee will be fixed for the first three years and in the fourth year it will be enhanced by 10%. License fee for fourth and fifth year will remain same. There will be no other increase in the license fees during the tenure of contract (including case of revision in menu and tariff) other than this increase of 10% in the fourth year.
- (l) The annual license fee shall be paid every year. For the first year, Licensee shall pay the annual license fee within fifteen (15) days on received of LOA, and for subsequent years, it shall be paid at least fifteen (15) days before the completion of each preceding year of License.
- (m) The license fee shall ensure availability of hand held fire extinguisher with the staff having knowledge operation of the equipment.
- (n) The ceiling limit for Minor units (as per close no. 13.4 of Catering policy -2017) applicable for all bidders will be as follows:
A licensee will be allowed to hold a maximum of 5 minor catering units per Division. Trolleys are also treated as separate unit as per catering policy-2017 and will be counted for the purpose of ceiling limit of five units. The Bidders should submit an undertaking on Non judicial stamp paper (Annex-3).

(o) The licensee shall get conducted third party audit periodically by an independent agency authorized/ prescribed by Railways every six months along with regular in house audit.

Price Bid and Special Condition of Contract**PRICE BID**

The annual license fee offered, payable in annually, is in the table below:

Particulars	Amount in Figures (Rupees)	Amount in Words (Rupees)
License fees payable to Railway per annum (This license fee quoted is exclusive of GST and all other applicable taxes)		

SPECIAL CONDITIONS OF CONTRACT

As mentioned in **Section ‘C’** of the Bid Document.

Assessment performance of Licensee

1. Railway Officials /Inspector(s) or any agency authorized by railway will conduct inspection to ascertain the catering performance of the Licensee.
2. As per provisions of the catering policy, 2017 and/or other instructions issued by the Railway from time to time, the performance of the licensee will be monitored/assessed by the Railway which will include the following:
 - i) Superior quality materials should be used in fabrication / construction of all static units to improve on aesthetics, durability and convenience for maintenance. The design and material used in construction of stall shall be prescribed by Railways.
 - ii) To provide hygienic and quality food to the travelling passengers. Monitoring of quality will be made through inspections and food quality checks by the Railway.
 - iii) Licensee Managed Units will be monitored for their mechanization and modernization along with their performance. Supervision of the services will be made constantly.
 - iv) There should be no cooking on platforms at stations.
 - v) All systems and processes and equipment such as deep freezers, hot cases, microwave ovens, refrigerated storage units, Bain-maries should be used and existing traditional equipment and manual methods should not be used in static units.
 - vi) All catering units should liberally provide garbage bins property lined with garbage bags. Garbage thus collected should be disposed off in the prescribed manner which should be incorporated in all agreements and should adhere to extant pollution control and environmental norms. All instructions in regard to disposal of garbage issued by Health, Mechanical and Commercial Directorate are to be adhered to by licensees.
 - vii) Zonal Railway shall maintain a data base of the various catering establishments to ensure that the ceiling limits on holding of catering licenses as per the Catering policy -2017 and /or instructions issued by the railway administration from time to time are complied with.
3. The Licensee will be selected along all the parameters stated above. All efforts shall be made by Licensee to control the deficiencies. Railway shall extend sufficient cooperation to the Licensee to make good the deficiencies, as the case may be.
4. Any deficiency in any of these parameters will be counted as “**Deficiency in Service**”.

PENALTIES:

1. For deficiency in any parameter, licensee will be suitably counseled for three times depending upon the nature of deficiency (i.e. major or minor as decided by Railway). In case the deficiencies persist and Railway determines that despite three counseling the licensee does not take adequate steps to improve, one written warning shall be issued to the Licensee.
2. However, after the warnings, if the performance of licensee does not improve, the licensee shall be imposed with a penalty (fine).
3. At the first instance, as determined by the Railway, a token penalty of Rupees five hundred (Rs.500/-) shall be imposed by the Railway.
4. At the second instance, as determined by the Railway, a penalty of rupees of one thousand (Rs.1000/-) shall be imposed by the Railway.
5. At the third instance, as determined by the Railway, a penalty of rupees of five thousand (Rs.5000/-) shall be imposed by the railway.
6. At the fourth instance, as determined by the Railway, a penalty of rupees of five thousand (Rs.50000/-) shall be imposed by the railway.
7. In case of further occurrence of deficiency, Railway may decide to serve a notice for termination of license Agreement.
8. Banning and suspension of business with the errant contractors shall be strictly enforced following due process.

(End of the document)