

Further, it is agreed between the parties as under:

Number of Arbitrations: The Arbitral Tribunal shall consist of:

- i) Sole Arbitrator in cases where the total value of all claims in question added together does not exceed Rs. 2.00 crores;
- ii) 3(Three) Arbitrators in all other cases.

Procedure for Appointment of Arbitrators: The Arbitrators shall be appointed as per following procedure:

- i) In case of Sole Arbitrator: Within 60 days from the day when a written and valid demand for arbitration is received by MD/ Maha Metro, Maha Metro will forward a panel of 03 names to the Concessionaire. The Concessionaire shall have to choose one Arbitrator from the panel of three, to be appointed as Sole Arbitrator within 30 days of dispatch of the request by the Maha Metro. In case the Concessionaire fails to choose one Arbitrator within 30 days of dispatch of panel of arbitrators by Maha Metro then MD/Maha Metro shall appoint anyone Arbitrator from the panel of 03 Arbitrator as Sole Arbitrator.
- ii) In case of 03 Arbitrators:
 - a) Within 60 days from the day when a written and valid demand for Arbitration is received by MD/Maha Metro, the Maha Metro will forward a panel of 5 names to the Concessionaire. The Concessionaire will then give his consent for any name out of the panel to be appointed as one of the Arbitrators within 30 days of dispatch of the request by the Maha Metro.
 - b) Maha Metro will decide the second Arbitrator. MD/ Maha Metro shall appoint the two Arbitrators, including the name of one Arbitrator for whom consent was given by the Concessionaire, within 30 days from the receipt of the consent for one name of the Arbitrator from the Concessionaire. In case the Concessionaire fails to give his consent within 30 days of dispatch of the request of the Maha Metro then MD/Maha Metro shall nominate both the Arbitrators from the panel.
 - c) The third Arbitrator shall be chosen by the two Arbitrators so appointed by the parties out of the panel of 05 Arbitrators provided to Concessionaire of from the larger panel of Arbitrators to be provided to them by Maha Metro at the request of two appointed Arbitrators (if so desired by them) and who shall act as Presiding Arbitrator. In case of failure of the two appointed Arbitrators to reach upon consensus within a period of 30 days from their appointment, then upon the request of either or both parties, the Presiding Arbitrator shall be appointed by the Managing Director/ Maha Metro, Nagpur.
 - d) If one or more of the Arbitrators appointed as above refuses to act as Arbitrator, withdraws from his office as Arbitrator, or vacates his / their office/ offices or is / are unable or unwilling to perform his functions as Arbitrator for any reason whatsoever or dies or in the opinion of the MD/Maha Metro fails to act without undue delay, the MD/Maha Metro shall appoint new Arbitrator/ Arbitrators to act in his/ their place except in case of new Presiding Arbitrator who shall be chosen following the same procedure as mentioned in para (ii) (c) above. Such re-constituted Tribunal may, at its discretion, proceed with the reference from the stage at which it was left by the previous Arbitrator(s).
 - e) The Maha Metro at the time of offering the panel of Arbitrator (s) to be appointed as Arbitrator shall also supply the information with regard to the qualifications of the



said Arbitrators nominated in the panel along with their professional experience, phone nos. and addresses to the Concessionaire.

Qualification and Experience of Arbitrators (to be appointed as per sub-clause above): The Arbitrators to be appointed shall have minimum qualification and experience as under:

Arbitrator shall be; a Working/ Retired Officer (not below E-8 grade in a PSU with which Maha -Metro has no business relationship) of any discipline of Engineering or Accounts/ Finance Department, having experience in Contract Management;

Or

A Retired Officer (retired not below the SAG level in Railways) of any Engineering Services of Indian Railways or Indian Railway Accounts Service, having experience in Contract Management; or a Retired Officer who should have retired more than 3 years previously from the date of appointment as Arbitrator (retired not below E-8 grade in Maha Metro or a PSU with which Maha Metro has a business relationship) of any Engineering discipline or Accounts/ Finance Department, having experience in Contract Management or Retired Judge of any High Court or Supreme Court of India or reputed Chartered Accountant & should be member of ICAI, New Delhi. No person other than the persons appointed as per above procedure and having above qualification and experience shall act as Arbitrator.

No new claim shall be added during proceedings by either party. However, a party may amend or supplement the original claim or defence thereof during the course of arbitration proceedings subject to acceptance by Tribunal having due regard to the delay in making it.

Neither party shall be limited in the proceedings before such arbitrator(s) to the evidence or arguments put before the Conciliator for the purpose of obtaining his decision. No decision given by the Conciliator in accordance with the foregoing provisions shall disqualify him from being called as a witness and giving evidence before the arbitrator(s) on any matter, whatsoever, relevant to dispute or difference referred to arbitrator/s. Neither party shall be limited in the proceedings before such arbitrators to the evidence.

It is agreed by both the Parties that in the cases where Arbitral Tribunal is consist of sole Arbitrator, their disputes shall be resolved by fast track procedure specified in sub-section (3) of 29B of the Arbitration and Conciliation (Amendment) Act, 2015 or as amended up to date.

If the Concessionaire does not prefer his specific and final claims in writing, within a period of 90 days of receiving the intimation from the Maha Metro/ Conciliator that the final demand is ready, he will be deemed to have waived his claim(s) and the Maha Metro shall be discharged and released of all liabilities under the License Agreement in respect of these claims.

Arbitration proceedings shall be held at Nagpur, India and the language of the arbitration proceedings and that of all documents and communications between the parties shall be in English.

The Arbitral Tribunal should record day to day proceedings. The proceedings shall normally be conducted on the basis of documents and written statements. All Arbitration awards shall be in writing and shall state item wise, the sum and detailed reasons upon which it is based. A model time scheduled for conduct of Arbitration proceedings in a period of 180 days/365 days will be made available to Arbitral Tribunal for their guidance. Both the parties should endeavor to adhere to time scheduled for early finalization of Award.



The Award of the sole Arbitrator or the award by majority of three Arbitrators as the case may be shall be binding on all parties. Any ruling on award shall be made by a majority of members of Tribunal. In the absence of such a majority, the views of the Presiding Arbitrator shall prevail.

A party may apply for correction of any computational errors, any typographical or clerical errors or any other error of similar nature occurring in the award of a tribunal and interpretation of specific point of award to tribunal within 60 days of the receipt of award party may apply to tribunal within 60 days of receipt of award to make an additional award as to claims presented in the arbitral proceedings but omitted from the arbitral award.

Cost of Conciliation/ Arbitration

The fees and other charges of the Conciliator/ Arbitrators shall be as per the scales fixed by the Maha Metro from time to time irrespective of the fact whether the Arbitrator(s) is / are appointed by the Maha Metro or by the Court of law unless specifically directed by Hon'ble Court otherwise on the matter, and shall be shared equally by the Maha Metro and the Concessionaire. However, the expenses incurred by each party in connection with the preparation, presentation will be borne by itself. The latest scale of fee & other charges fixed by Maha -Metro.

Jurisdiction of Courts

Where recourse to a Court is to be made in respect of any matter, the Court at Nagpur shall have the exclusive jurisdiction to try all disputes between the parties.

