

Annexure A.4.02

AGREEMENT FOR ERECTING AND MAINTAINING AN OVERHEAD POWER LINE CROSSING OVER AND ACROSS RAILWAY TRACKS.

AN AGREEMENT made this-----day of-----Twenty Thousand and-----BETWEEN THE PRESIDENT OF INDIA acting through the Chief Electrical Engineer/Divisional Railway Manager/Divisional Railway Manager (Electrical) of the-----Railway administration (hereafter called "the Railway") of the one part and----- (hereinafter referred to as "the owner" of the other part.

WHEREAS the owner wishes to erect an electric overhead line and carry out the works connected therewith for transmission of distribution of electrical energy over and across the railway tracks and/or land at kilometrage-----in the section-----between----- railway station, of the Railway, the said overhead line where it crosses the railway tracks and/or land works connected therewith hereinafter referred to as the "crossing". Now IT IS HEREBY AGREED AS follows:

1. General: The Railway will permit the owner as from the-----day of-----20----, to lay the crossings as per Drg. No.-----approved by the Railway hereunto attached as Annexures, and in compliance with Regulations for Power line crossing of Railway tracks hereunto attached as Annexures hereinafter referred to as the Regulations, for the purposes hereinbefore mentioned subject to the terms and conditions hereinafter contained.

2. Permission to erect and maintain the crossing:- The Railway will, subject to the provisions of clause 3 hereinafter contained, permit the owner to erect and maintain in accordance with the Regulations the crossing over and across the Railway tracks and/or land at the place(s) shown on the said drawing and to execute all repairs in connection therewith when necessary from time to time and all such works shall be executed at the cost of the owner at such times as may be permitted and to the satisfaction of the Railway in all respects.

Provided that if shifting of or modifications to or dismantling of the crossing is required for the proper functioning of the Railway and is to be carried out by the owner as desired by the Railway, the costs of such works shall be borne by the Railway except in those cases where the need for such works on account of Railway's anticipated development/requirements was foreseen in time and the owner had agreed in writing prior to the construction of the crossing to meet the costs of such works.

3. Railway to carry out protection works:- In the event of it being necessary in the opinion of the Railway to support or protect the railway tracks and/or land or works during the-erection of the crossing or the execution of any repairs thereto or any removal thereof the work of supporting of or protecting the railway tracks or land and resorting the tracks and/or land to its original condition or such part of the said work as the Railway shall deem fit will be carried out by the Railway at the cost of the owner in all respects. The amount of such costs will be determined by the Railway in its absolute discretion and will be paid by the owner to the Rly. on demand. The owner will, if so required, deposit with the Railway prior to the carrying out of the said work such sum of money as may be estimated by the Railway to be the cost of the work required to be done and the amount of the said deposit will be set off against the said cost to be determined as aforesaid and the balance paid as aforesaid.

4. Cost of Supervision of works

All works in connection with the matters referred to in clauses 2,3 and 6 will be subject to such supervision by the Railway as may be considered necessary by the Railway and the owner will pay to the Railway on demand all costs of such supervision including the cost for the staff required to look after the safety of the railway tracks and/or land while all or any of such works are/work is in progress. The costs of such supervision and other costs as aforesaid shall be determined by the Railway in its absolute discretion.

5. Access

Neither the owner nor his employees will at any time enter upon the railway land for any purpose whatsoever in connection with the crossing as aforesaid without the consent in writing of the Railway.

6. Modification, shifting or removal of crossing If for convenience of operation, unsatisfactory maintenance or for any reason whatsoever the Railway desires special maintenance, repairs, modification, shifting or removal of the crossing the owner will, subject to the provisions of clause 3 hereof carry out such works or such portion thereof from the date of notice issued by the Railway and to the satisfaction of the Railway within a reasonable period determined by the Railway in its absolute discretion as the Railway shall not under provision of clause 3 hereof proposed to carry out the work. If the owner so desires he may re-erect the same at this own expense but to the satisfaction of the Railway in all respects on such other land or track of the Railway as it may in its absolute discretion consider suitable and available for the purpose. In the event of the crossing being so re-erected the land on which the same is re-erected will be used and occupied upon the terms of the Agreement mutatis mutandis, as if the same has originally been subject to this Agreement.

7. Termination of Agreement by the Railway

The Railway may be any time (and from time to time) be' at liberty in its absolute discretion to suspend temporarily and/or terminate this Agreement and all or any of the privileges hereby granted upon the expiration of three months' notice in writing of its intention to do so being left at or sent to the registered office of the owner/and notwithstanding that the owner may have executed any work of a permanent or temporary character and incurred expenses in the execution thereof. The owner shall not be entitled to any damages or compensation by the reason of such termination or suspension.

8. Same as otherwise provided in this contract, 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 Chief Electrical Engineer/Divisional Railway Manager/ Divisional Railway Manager (Electrical) of the Railway.

9. Termination of Agreement by the owner:

The owner may on giving to the Railway one month's notice in writing terminate this Agreement and such notice shall be sufficiently served if sent by registered post to the Chief Electrical Engineer/Divisional Railway Manager/ Divisional Railway Manager (Electrical) of the Railway or left at his office.

10. Termination of Agreement for default:

In the event of the Railway giving notice under Clause 7 hereof for special maintenance, repairs, modification, shifting or removal of the crossing and the owner failing within the time stipulated to carry out the said works except such position thereof as the Railway may propose to carry out under the provisions of clause 3 hereof or in the event of the owner committing any other breach of this Agreement or any part thereof, the Railway shall be entitled in its absolute discretion (notwithstanding the provisions of clause 8 hereof) to terminate this Agreement and all and any of the privileges hereby granted upon the expiration of six months' notice in writing of its intentions to do so being given in the manner provided in clause 7.

11. Removal of crossing:

Prior to the termination of this Agreement and subject to the provisions of clause 3 hereof the owner will at his own cost remove the crossing from the property of the Railway and restore the land to its original condition to the satisfaction of the Railway in all respects. In the event of the owner failing to remove the said crossing and restore the land to its original condition in the manner hereinbefore provided the Railway will be entitled at its option immediately after the termination of this Agreement to carry out the work of removal of the crossing and restoration of the land without being responsible for any loss or damage whatsoever to the said crossing or any part thereof. In such an event the owner will pay to the Railway on demand all costs incurred by the Railway in connection with such work including supervision charges, the amount which will be determined by the Railway in its absolute discretion. The said crossing and the materials used in connection therewith and belonging to the owner will be and remain the property of the owner but the Railway will be entitled to retain the same but without any liability therefore until the amount of such costs as aforesaid have been paid by the owner to the Railway.

12. Indemnity

The said crossing will be used at the sole risk and responsibility of the owner. If at any time owing directly or indirectly to such use or to the existence of the said crossing or to the carrying out of the work of erection and/or repair and/or removal of the said crossing and restoring the land to its original condition or to the exercise by the owner of any privileges hereby granted or to any other cause arising out of the operation of the Agreement any damage will be caused to the Railway or to the permanent way and works, Rolling Stock or any other property of the Railway or if in consequence of any of the matters aforesaid or of any default in fulfilling any of the conditions of this Agreement or of any negligence on the part of the owner or any person connected with him, any claim or damage or loss be substantiated by any person or persons against the Railway the Owner will upon demand pay forthwith and make good the same and shall also make good to the Railway all costs and expenses which it may incur in regard to any such claim or damage or loss as aforesaid. In the event of there being any dispute as to what specific loss and/or damage has been caused by reason of any of the matters aforesaid such dispute will be referred to the Chief Electrical Engineer of the Railway, whose decision thereon shall be final and binding.

13. Railway Accidents

The Railway shall not be responsible for any damage to the crossing and other property of the owner due to any accident in the working of the Railway due to any cause whatsoever.

14. Sub-letting

The owner will not sub-let, transfer or assign this Agreement or any of the privileges hereby granted without the previous consent in writing of the Railway.

15. Limitation of rights

Nothing herein contained will be construed as conferring upon the owner or his permitted assignee any rights over the property of the Railway.

16. Cost of Agreement

All costs and expenses incidental to the preparation and completion of these presents including Stamp duty will be borne and paid by the owner.

In witness whereof the parties have hereunto set and subscribed their respective hands and seals the day, month and years respectively mentioned against their respective signatures.

Signed at-----by Shri-----
(Seal of the Owner)

for and on behalf of the Owner in the presence of:

1. Name (Signature of Witness)

Address

2. Name (Signature of Witness)

Address.

Signed at-----by Shri-----

for and on behalf of the Owner in the1 presence of:

1. Name (Signature of Witness)

Address

2. Name (Signature of Witness)

Address.

Notes. 1. In the case of Railway Companies or Port Commissioners Railways, the term Chief Electrical Engineer wherever occurring In this Agreement may be replaced by the designation of the Officer on whom the duties of the Chief Electrical Engineer devolve.

2. The agreement should be signed on behalf of the President of India by an officer duly authorized under Article 299 (1) of the Constitution of India.

CERTIFICATE OF COMPLIANCE

It is hereby certified that the electrical overhead line/underground cable crossing Noat km _____ on the section _____ of the Division of the _____ at

Railway has been constructed in compliance with Indian Electricity Act, 1910 and Indian Railways Act, 1890, and the rules made thereunder and as amended from time to time and the Regulations for power line crossings of Railway Tracks, 1987. The crossing has also been constructed in accordance with the drawings approved by the _____ Railway and the Electrical Inspector of the _____ Railway, the reference of which are given below:

2.* It is also hereby certified that the overhead line crossing specially released as per clause 22.4 of the 'Regulations for Power Line Crossing of Railway Tracks, 1987' would be modified by the owner, on an approved design whenever Railway will require to modify such crossings due to introduction of electric traction on the section of the Railway.

Alongwith a reproducible print eight copies of the drawings showing the completed power line crossing is/ are enclosed.

(Seal of the owner)

Signature

(Name of the owner)

Date

Place

* Strike off, if not applicable.

\$ The location of the overhead line crossing or underground cable will be identified by indicating the kilometerage with the painted number of the traction masts/structures and/or telegraph posts, as available, between which the overhead line or underground cable crossing is located.