

## **AGREEMENT**

1. An agreement made this ..... day of ..... 20.....at New Delhi between the Indian Railway Catering and Tourism Corporation Limited, having its Registered Office at 9<sup>th</sup> Floor, Bank of Baroda Building, 16, Parliament Street, New Delhi-110001 through GGM/ITS hereinafter called “IRCTC” which expression shall where the context so admits include its successor and assigns of the First Part.

And

M/s .....(Name of the Online travel Agency) Through .....(name & designation) having its registered office at ..... hereinafter called “Second Party” which term shall mean and include their successors, legal representatives & assigns of the Second Part.

2. Whereas the second party being an Online travel Agency has expressed its interest and desire to function as an agent of IRCTC for selling of E-tickets and whereas IRCTC has agreed to engage the Second Party as an agent for selling of e-tickets, for travel in trains of Indian Railways, through IRCTC website, for a period of **one year** from signing of this agreement. The agreement can be further extended at the discretion of IRCTC. This agreement is made between IRCTC and the Second Party.

The Second Party agrees to carry on the work in strict accordance with the terms & conditions contained in this agreement.

## 1. Terms and Conditions of Agreement

The IRCTC provides the facility for transacting with Indian Railway's PRS System through the Internet. The existing Rules of Indian Railways for reservation and booking of tickets shall apply to all such transactions along with special conditions imposed for Internet based booking from time to time. The special conditions and the terms of service presently applicable to Internet Booking are detailed in this document.

- 1.1. IRCTC's performance of this agreement is subject to existing laws and legal processes of Government of India, and nothing contained in this agreement is in derogation of IRCTC's right to comply with law enforcement requests or requirements relating to use of this Website by the Second Party or information provided to by the Second Party or gathered by IRCTC with respect to such use including the customers. IRCTC may provide details of use of the Website by the Second party to regulators or police or to any other third party, or in order to resolve disputes or complaints.
- 1.2. If any part of the agreement between IRCTC and the Second Party is determined to be invalid or unenforceable pursuant to applicable law including, but not limited to, the warranty disclaimers and liability limitations set forth herein, then the invalid or unenforceable provision will be deemed superseded by a valid, enforceable provision that in opinion of IRCTC most closely matches the intent of the original provision and the remainder of the agreement shall continue in effect.
- 1.3. This agreement constitutes the entire agreement between the Second Party and IRCTC for purposes laid down in para-2 and it supersedes all prior or contemporaneous communications and proposals, whether electronic, oral, or written, between the Second Party and IRCTC.
- 1.4. That terms & conditions of service applicable on booking of tickets through IRCTC Website apply Mutatis Mutandi on the tickets booked by the Second Party by virtue of this agreement.

2. **Standard and Scope of Service:** IRCTC will supply the service to the Second Party with reasonable care and skill subject to all other risks or error and liability, limitation clauses would remain effective.

- 2.1. IRCTC makes **NO** guarantee that any service will be uninterrupted, timely, secure or error free.

## 3. OBLIGATIONS OF (NAME OF THE SECOND PARTY) AND THEIR CUSTOMERS

- 3.1. General Obligations: The Second Party shall access the website only for lawful purposes as laid down in the agreement and shall be responsible for complying with all applicable laws, statues and regulations in connection with the use of IRCTC website. Other than as agreed as per this Agreement, the

Second Party shall not modify copy, distribute, transmit, display, perform, reproduce, publish, license, create derivative works, transfer or sell any information, products or services obtained from this website. The Second Party shall not create a hypertext to the Website or "Frame" the Website, except with the express advance written permission of IRCTC.

- 3.2. The information provided by the Second Party in the Registration Page must be complete and accurate. IRCTC reserves the right at all times to disclose any information as IRCTC deems necessary to satisfy any applicable law, regulation, legal process, or Government request.
- 3.3. The second party will book the ticket as per the normal flow on IRCTC Site, and will give identity card details of the traveller. The second party should issue receipt for money taken by him from customer on his own printed stationery. Service charge & Service tax, as applicable should be shown separately in the receipt issued by the second party. This receipt should be preserved by the customer to claim refund from the second party, if it becomes necessary.
- 3.4. It would be obligatory on the part of the Second Party to impose similar procedure, terms & conditions and rules on all its customers, as IRCTC would follow with its customers, on its website.
- 3.5. Payment by the Second Party to IRCTC for booking tickets on line will be made online, by Rolling Deposit Scheme only .
- 3.6. Disclaimer: Indian Railway and IRCTC are not responsible for wrong booking due to incorrect detail / details furnished by the Second Party.
- 3.7. IRCTC would offer the web services for the ticketing as a bundled option along with the IRCTC's tourism products (Railtourismindia.com) as per the annexure-I
- 3.8. The second party would not be allowed to club rail tickets with any other products or services which pose direct or indirect competition to IRCTC's tourism products, without permission of IRCTC.
- 3.9. All rail e-ticketing pages must be co-branded, with equal space & importance for brands of both the parties (i.e.: IRCTC & the second party) and will be used only for rail e- ticketing and sale of other IRCTC products as authorized by IRCTC. They will not carry any other banners/ advertisements. This also applies to the e- ticket print out / confirmation e- mails etc.
- 3.10 The second party would be using their own payment gateway to collect the payments from the customer. They may charge actual credit card charges (not more than 1.8% of total ticket value including service tax) from the customer in

addition to the service charges as given in para 8.8. Payment by the second party to IRCTC for booking tickets on line will have to be done as per the annexure 2. All chargeback shall have to be borne by the second party only.

- 3.11. The refunds will have to be credited back to the account used for online booking as per the existing IRCTC cancellation policy. The second party will be responsible for refunds to customers. In case of proved misconduct in this regard or other non-compliance with the terms & conditions of the agreement IRCTC shall be free to impose penalty upto Rs.50,000/- (Rupees Fifty Thousand Only) and/or terminate the agreement/authorisation for internet ticketing at its sole discretion.
- 3.12. On expiry of the validity of recognition of the second party (initially one year), the access of API provided to the second party would be deactivated by IRCTC. Upon receipt of request from the second party, the same would be considered for reactivation. No further fee would be charged by IRCTC for the extension of the contract. However, IRCTC reserves the right to refuse extension at its discretion without giving any reasons for the same
- 3.13. The second party would take permission from IRCTC for every promotional offer involving e-tickets.
- 3.14. The second party are not permitted to issue any advertisement in any media for soliciting E- rail ticketing agents.
- 3.15. The Second Party should ensure that the number of bookings by each of the users in any one calendar months is restricted to 10.

#### **4. Cancellation / Refund / Modification of Tickets**

- 4.1 IRCTC functions as an agent for Indian Railways and refunds are made by Indian Railways and Credited to the account of the second party by IRCTC as and when received from Indian Railways. IRCTC will follow up with Railways for refund of amount due in these cases but does not bear any liability for delay or non-payment of refund amount, by Indian Railways.
- 4.2. The second party will cancel the ticket online on request of customer and will refund the amount to customer on receipt of money from Indian Railways through IRCTC.
- 4.3. Wherever tickets cannot be cancelled online, Second Party will write to IRCTC at [etickets@irctc.co.in](mailto:etickets@irctc.co.in). In turn IRCTC will take up the matter with Zonal Railway concerned and arrange refund. The Second Party should refund money immediately on receipt of money from Railway through IRCTC.

- 4.4 The Second Party is duty bound to refund the cancellation amount to the customer who booked the ticket after making payment to Second Party and later got it cancelled. The Second Party would not adjust the cancellation amount with any of its previous dues, until and unless the customer is in continuous running account with the Second Party.
- 4.5 If in case of complaints / delay in cancellation refund, overcharges or other non-compliance with terms & conditions of this agreement IRCTC may impose suitable penalty which may extend to termination of the authorization of the Second Party for Internet Booking. This is without prejudice to any other action that IRCTC may take.

## **5. Privity of Contract:**

The Second Party will book tickets for its customers with IRCTC with clear understanding that:

- 5.1. There is no privity of contract of IRCTC or Indian Railways with the customer of the Second Party in the matter of booking, cancellation or after booking or cancellation, or in relation to any payment or refund for any booking of the tickets.
- 5.2. If the Customer of the Second Party makes any claims of any nature against IRCTC or Indian Railways, then the Second Party hereby agrees to deal with the claims and settle it.
- 5.3. There will be no additional or exceptional liability in relation to tickets sold to the Party except the normal refund as per the terms and conditions applicable when tickets are sold directly by IRCTC or Railways.

## **6. Liability**

- 6.1. Limitation of Liability: IRCTC shall not be liable to the second party or any Party save as expressly provided for in these Terms & Conditions and shall have no other obligations, duties or liabilities whatsoever in contract, tort or otherwise arising out of the use of online booking or connection to the website. IRCTC and/or its respective suppliers hereby disclaim all warranties, terms & conditions with regard to this information, products and services including all implied warranties, terms and conditions, by statute, collaterally or otherwise of satisfactory quality, fitness for a particular purpose, title and non infringement. In no event, shall IRCTC and / or its suppliers be liable for any loss of profit, loss of revenue, wasted time, wasted costs, indirect, incidental, special or consequential loss arising out of or in any way connected with the user of the online booking facility through website or otherwise or with the delay or inability to use online booking facility of IRCTC or of any information, products and services whether based on contract, tort, strict liability or otherwise.
- 6.2. Accuracy of Information: IRCTC shall use reasonable endeavors to check the accuracy of the information published online or through website of IRCTC. IRCTC give no warranty as to the accuracy of such information given on

IRCTC's website and reserve the right to amend and vary the contents of this website from time to time without notice. The IRCTC sites / services may contain links to third party websites ("linked sites"). IRCTC is providing these links only as a convenience, and the inclusion of any link does not imply endorsement by IRCTC of the site or any association with its operators. The linked sites are not under the control of IRCTC and IRCTC is not responsible for the contents of any linked sites, including without limitation any link contained in a Linked site, or any changes or updates to a Linked site. IRCTC is not responsible for web casting or any other form of transmission received from any "Linked site" and IRCTC is not responsible if the Linked site is not working appropriately.

- 6.3. Any transaction with third parties including advertisers on the website of IRCTC participation in promotions, including the delivery of and the payment for goods and services, and any other terms, conditions, warranties or representations associated with such dealings or promotions, are solely between the Second Party, advertiser or other third party. IRCTC shall not be responsible or liable for any part of any such dealings or promotions.
  - 6.4. **Maximum Liability:** The maximum amount of IRCTC liability to the Second Party for all loss or damage arising out of online booking through website or otherwise and the service whether in contract or tort (including any liability for negligence howsoever arising out of or in connection with the performance of IRCTC's obligations in the provision of the website and this service) shall be limited to the value of the ticket purchased through use of this service.
  - 6.5. **Exclusion of Liability:** IRCTC shall not be liable to the Second Party for any of the following types of loss or damage arising out of use of website and the service whether in contract or tort (including any liability for negligence howsoever arising out of or in connection with the performance of IRCTC's obligations in the provision of the website and this service): -
    - i. Loss of revenue, business, anticipated savings or profits; or
    - ii. Any indirect or consequential loss howsoever arising.
  - 6.6. **Exclusion of other Warranties / Remedies:** Except as stated elsewhere in this Agreement, the Second Party shall acknowledge and agree that in entering into the Agreement, he does not rely on and shall have no remedy in respect of any statement, representation or warranty given by any person (including as to condition, quality and fitness for purpose).
  - 6.7. **Force majeure:** No party shall be liable to any other party in respect of any delay in performance of these terms and conditions or delay in performance or breach of the terms and conditions due to any event or circumstances which are beyond reasonable control of the concerned party.
  - 6.8 The Second Party shall abide with all the Local Laws, Labour Laws etc. IRCTC will not be the "Principal Employer" in case of employees engaged by the Second Party for the purpose of booking the tickets and allied activities.
7. **Service Hours:** Booking through Internet is presently allowed from 5 AM to 11.30 PM (Indian Standard Time) on all days including Sundays. Service hours are liable

to be changed without prior notice

- 7.1. **Opening day booking (\$) (Presently 90th day in advance, excluding the date of journey)** will be available only after 8AM, along with the counters. If the Second Party tries booking before 8 AM, for opening days tickets, the reservation will fail, with the Second Party account getting debited; IRCTC will refund the entire fare and IRCTC's service charges, but the bank / card transaction charges are likely to be forfeited.
- 7.2. Please note that in case of some Intercity day trains, the ARP (Advance Reservation Period) is less than 90 days) For Tatkal booking, opening day presently means five days from date of journey eg if Today is 1st December, then 6th December will be the Journey day.
- 7.3 The opening days are liable to be changed as per notifications issued by Indian Railways from time to time.

## **8. General**

- 8.1. **Governing Law:** This agreement and the Second Party's use of the online booking through IRCTC's web site is governed by Indian Law and the courts of New Delhi, India. The Second Party hereby irrevocably consents to the exclusive jurisdiction and venue of courts in New Delhi, (India) in all disputes arising out of or relating to the use of the IRCTC Sites/ Services.
- 8.2. **Entire Agreement:** This Agreement including any document referred to herein constitutes the entire agreement between IRCTC and the Second Party in respect of use of this service by the Second Party.
- 8.3. **Third Party Rights:** Nothing in this Agreement shall be taken as granting any rights expressly or implicitly whether contractual or statutory to persons other than the Second Party or IRCTC.
- 8.4. In case of any dispute it shall be compulsory for the Second Party to first submit to the Arbitration of a Sole Arbitrator not below the rank of General Manager/ IRCTC to be appointed by MD/IRCTC after a request is made in written by the Second Party or IRCTC. The decision of the Arbitrator shall be binding on both the parties.
- 8.5. No claim would be preferred by the second party in any Court or Tribunal without giving 60 days notice in the nature of Section 80 CPC to the IRCTC.
- 8.6. If any customer of Second Party institutes any proceedings against IRCTC, the concerned Second Party would be liable to make good all the loss occurring to IRCTC as a result of those proceedings, including the cost of defending the proceedings wherever these are due to deficiency of second party. Further, whenever there is deficiency on account of both the parties, the liability will be divided proportionately.

8.7. Below is the list of the maximum charges to be levied on the customer. These charges are as fixed by Indian Railways and are liable to change without notice at any point of time.

No. Of Passengers	IRCTC Service Charge		OTA Service Charge (Inclusive of services Tax)		Total (IRCTC + OTA)	
	Sleeper	AC	Sleeper	AC	Sleeper	AC
1	10	20	10	20	20	40
2	15	25	10	20	25	45
3	20	30	10	20	30	50
4	20	30	10	20	30	50
5	20	30	10	20	30	50
6	20	30	10	20	30	50

The above charges are inclusive of Service Tax. Service Tax as applicable should be shown separately in the receipt issued by the second party.

8.8 .As corporate entities the Second Party shall not be eligible for membership of the Scheme for Frequent Travelers. Individual members of the scheme shall not be able to accrue any reward points if they purchase tickets through Second Party.

## 9. Termination

9.1. IRCTC's Termination Rights: IRCTC may at any time at its sole discretion and without giving any reason or any prior notice terminate or temporarily suspend the Second Party's access to all or any part of the website.

**10. Exclusion of liability for cancellation of trains:** In case of cancellation/diversion/termination / short of destination of trains, the Indian Railways Rules which contain limitations and exclusions relating to the liability of the Indian Railways to the customer in respect of loss or damage caused by the delay/diversion/termination short of destination and / or cancellation of any train, any missed connection, or closure of the railway shall apply.

The IRCTC provides only the facility of interacting with the Indian Railway's PRS system through the Internet. The IRCTC is not responsible for providing train services or any other service through this site.

11. In witness whereof, the said parties hereto have set their hands at the place and on the dates respectively shown hereinafter.

**Authorized Representative of the Second Party**

**GGM/ITS  
IRCTC, New Delhi**

**(Stamp/Seal)**

**Witnesses**

**1.**

**2.**

**Witnesses**

**1.**

**2.**

**(NOTE: - Signature of the Second Party and the Stamp / Seal on each page of Agreement is essential)**

## **Annexure 1**

IRCTC in collaboration with OTA, would allow Reselling of some or all of its Tourism services. IRCTC's tourism services currently include :

**Rail tour Packages:** We have got more than 80 packages online covering whole of India. We offer 10% gross and 9.6% net commission for the same.

**Holiday Packages:** We have got more than 45 packages online. We offer 10% gross and 9.6% net commission for the same.

**Buddhist Train:** The Buddhist Circuit special train covers major Buddhist sites in India and Nepal in a 7 nights 8 days package. This product can be sold in parts also subject to minimum 3 nights. It can be sold by the OTA with a commission of 15% gross and 14.4% net.

**Bharat Darshan:** This is a product targeted at the budget traveler. We have got variety of itineraries available which may be sold by OTA at a commission of 5% Gross and 4.8% net.

**Car Rental:** We have car rental online booking facility in 21 cities of India. At present, no-commission is being offered, you may utilize this service also.

**Hotel Booking:** We would be starting the Hotel Online booking facility shortly and the commission structure would be decided as and when the facility is online.

Please note that above commission structure is subject to change from time to time.

We would provide you a login ID & password which can be used to make all the bookings. We have got a system of cut & pay so you may pay the net amount and keep the commission with yourself.

The above system would be reworked after we publish the web services for the tourism services too.

## Annexure 2

### Procedure order for E-Rolling Deposit Account

1. OTA seeking Rolling Deposit Scheme can deposit minimum of Rs.1,00,000/- at a time and maximum of 50 lakh. As and when the minimum balance in the deposit account reaches the level of Rs.25,000/- the booking through the deposit account will be stopped.
2. Deposit from the OTA would be received through Cheque/Demand Draft/RTGS/EFT only in favour of IRCTC E-Rolling Deposit Account.
3. In case of payments received through cheques/drafts, the booking of tickets will be permitted after period of 5 days after receipt and realization of cheque/draft. In case of payments received through RTGS/EFT, the booking of tickets will be permitted after period of 3 days, after ascertaining confirmation of credit. In order to save time in ascertaining realization of cheques/drafts etc., the OTA's are advised to remit the payment through RTGS/EFT.
4. No interest will accrue in the deposit account.
5. The amount deposited with IRCTC would be used only for purchase of Railway Tickets and Tourism Products through IRCTC.
6. Banks may levy transaction charges on the online deposits made to this E-Rolling deposit account as per existing banks rules. IRCTC will not bear any charges on this account.
7. Payments through credit cards will not be accepted.
8. Cheque and Drafts will be handed over by the OTAs interested in booking of tickets through rolling deposit scheme to the nominated staff of IRCTC at Delhi.
9. Wherever the payment to the account is remitted through RTGS/EFT, the OTA should forward the letter indicating the amount remitted in IRCTC E-Rolling Deposit Account, to the above stated nominated staff.
10. In case of failed transactions, the amount debited to the user will be credited back to the users' rolling deposit account.
11. All the booking will be debited to deposit account of the OTA by IRCTC. Similarly, all the refunds or cancellations of tickets will be credited to the deposit account of the OTA.

12. If the member wishes to terminate/close the E-rolling deposit account they may terminate their E-rolling deposit account by providing notice in writing.
  13. In case of termination of E rolling deposit facility, the amount in the E rolling deposit account will be returned to the OTA by way of cheque after realizing all the dues of IRCTC.
  14. Wherever the E rolling deposit account is closed/terminated prior to a period of six months, an administrative charge of Rs.5,000/- would be recovered from the balance available with IRCTC in the OTA account.
  15. If the cheque of the OTA is dishonoured due to insufficient funds in the first instance, a fine of Rs.5000/- would be imposed on the rolling deposit customer i.e. the OTA, and an action under section 138 of Negotiable Instruments Act will be initiated. In the second instance fine of Rs. 25,000/- will be imposed and on third occurrence IRCTC reserves the right to impose penalty as it may deem fit and/or ban further dealing with the OTA.
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