

F.No. 25(7)/E.Coord./2017

Ministry of Finance
Department of Expenditure
E.Coord Section

North Block, New Delhi
Dated: 22nd December, 2018

OFFICE MEMORANDUM

Subject: Switch over from petrol and diesel vehicles to electrical vehicles for hired vehicles in Secretariats/Attached offices of Ministries and Departments of Government of India located in Delhi

Keeping in view the policy thrust of the Government that by 2030, 30% of the total vehicle fleet in the country will be electrical for the reason of its being environmental friendly, cost effective and substitute for fossil fuels, Ministries/Departments are encouraged to switch over to electrical mobility from petrol and diesel cars in respect of vehicles taken on lease/hire for official purpose.

2. Accordingly, all the Ministries/Departments may aim at replacing the petrol and diesel cars hired by Ministries/Departments in their Secretariats and attached offices (located in Delhi) through contractors by electric cars for mobility in Delhi. In cases where existing contracts for hiring of petrol/diesel vehicles have come to an end, Ministries/Departments may consider fresh contract for hiring electric vehicles.

3. To facilitate Ministries/Departments a framework of the draft agreement which the Ministries/Department may adopt for entering into contract for lease/hiring of electric vehicles is annexed. Ministries/Departments are at liberty to amend the conditions of the draft agreement as per the type of lease/hiring (Wet or Dry) entered into with the service provider.

(Annie George Mathew)

Joint Secretary to the Government of India

To:

- 1) All Ministries/Departments of the Government of India
- 2) Office of Comptroller and Auditor General of India

Template of the conditions of Agreement for hiring of electric vehicles

This AGREEMENT for lease/hiring of Electric Cars (hereinafter referred to as AGREEMENT) is executed on _____ at _____ by and between:

(NAME OF SERVICE PROVIDER)

and

(CLIENT)

Now it agreed between the parties as follows

DEFINITIONS:

- 1.
- 2.
- 3.
- 4.

WET LEASE OF ELECTRIC CARS AND CONDITIONS THEREOF

1. Wet Lease means provision of E-cars/E-vehicles with uniformed chauffeur, without fuel costs.
2. The Ministry/Department (CLIENT) may take on wet lease electric vehicles hereafter referred to as e-cars/e-vehicles on a wet lease from (NAME OF SERVICE PROVIDER) after entering into a formal lease agreement with (NAME OF SERVICE PROVIDER). The agreement may contain a clause for decrease or increase the number of such vehicles depending on the requirement of the client.
3. The leased E-cars would be privately registered in the name of the CLIENT with hypothecation to (NAME OF SERVICE PROVIDER) in accordance with the provisions of section 51 of the Motor vehicles Act, 1988 and the ownership of these shall continue to remain with (NAME OF SERVICE PROVIDER) and CLIENT shall have no right on these vehicles in any manner except as a lessee within framework of the Lease Agreement.

4. The compliance of all legal provisions/statutory requirements in respect of leased e-cars shall be the responsibility of the (NAME OF SERVICE PROVIDER) which shall also indemnify the CLIENT against any damages/ claims arising out of the agreement or by virtue of the registration of vehicles in the name of the CLIENT.

OBLIGATION OF (NAME OF SERVICE PROVIDER)

1. (NAME OF SERVICE PROVIDER) shall provide as many number of E-cars for the use of CLIENT, as required by the client, on 24X7 basis along with clean interiors, proper upholstery and as many uniformed, well mannered, courteous and polite chauffeurs who are punctual, equipped with live mobile and well acquainted with the roads of Delhi/NCR area. Standby vehicles shall be provided by (NAME OF SERVICE PROVIDER) during periodical maintenance of the hired vehicles. Additional accessories/utilities may be as per the requirement of the client.
2. (NAME OF SERVICE PROVIDER) shall ensure that drivers of vehicles taken on wet lease are of good character, duly verified by Delhi Police from security angle and have a valid driving license.
3. (NAME OF SERVICE PROVIDER) shall ensure that the issues relating to leave/rest of drivers are taken care of as per statutory rules/regulations.
4. The cost of comprehensive insurance of hired vehicles would be borne by (NAME OF SERVICE PROVIDER) for the entire period of the contract.
5. (NAME OF SERVICE PROVIDER) shall provide a customer service number active for 12 hours per day and 6 days per week for complaints, suggestions etc. and shall also maintain a dedicated telephone/mobile number on which the CLIENT can contract round the clock for any emergent requirements.
6. (NAME OF SERVICE PROVIDER) shall be responsible for comprehensive free Annual maintenance of the e-cars for the entire period of contract, as decided by the client and (NAME OF SERVICE PROVIDER) , and shall replace battery when its capacity gets reduced below 75% of optimum capacity and ensure effective efficiency of battery at all times. .
7. The leased e-cars carry a free of charge periodic servicing (a total of ____ free services during a period of ____ years) from the date of commencement of lease or total ____ km during those ____ years; whichever is earlier. Subsequent services would be on paid basis after every ____ km or ____ year from the last service, whichever is earlier.

8. The car tyres would be replaced once every ____ months by (NAME OF SERVICE PROVIDER) but shall be repaired/replaced immediately by (NAME OF SERVICE PROVIDER) , in case of any damage.
9. (NAME OF SERVICE PROVIDER) would supply and install a minimum of ____DC chargers in the client location as per requirement of the client who will provide requisite support to (NAME OF SERVICE PROVIDER) .
10. (NAME OF SERVICE PROVIDER) would bear all the costs and steps associated with the registration and deregistration of E-cars with the Regional Transport Authorities.
11. (NAME OF SERVICE PROVIDER) would raise an invoice in the first week of every month for the preceding month.
12. (NAME OF SERVICE PROVIDER) would appoint a nodal officer to manage client queries and urgencies and inform through e-mail his name and contact details to the client.
13. The agreement shall not lead to any relationship between drivers of E-cars and the client and payment of salary and other allowance including meeting their all statutory obligations shall be the sole responsibility of the (NAME OF SERVICE PROVIDER) and no complaint by any of the drivers in this regard will be entertained by the CLIENT.

OBLIGATION OF CLIENT

- (a) It shall be the responsibility of the client to provide dedicated location(s), space (without any charge) and all necessary approval, to (NAME OF SERVICE PROVIDER) for installation/commissioning of charging stations and to also undertake all electrical and preparatory work relating thereto.
- (b) The client shall make payment to (NAME OF SERVICE PROVIDER) as per approved rates depending upon the number of leased vehicles within 30 days of receipt of the invoice from the (NAME OF SERVICE PROVIDER).
- (c) All necessary documents relating to registration and de-registration of the vehicles, acceptance of vehicles by the clients from (NAME OF SERVICE PROVIDER) at its premises during the delivery of the vehicle shall be signed by the CLIENT.

TERM OF THE AGREEMENT

- (a) The agreement between CLIENT and (NAME OF SERVICE PROVIDER) shall normally be valid for a period of _____ year(s) from the date of deployment of the first E-car to the client/ payment of _____ monthly lease rental from the date of deployment of E-cars with a provision to further extend it for a period not exceeding one year as may be decided by the competent authority after review of performance.
- (b) Upon expiry/termination of the agreement, the client shall handover the leased E-cars to authorized officer(s) of the (NAME OF SERVICE PROVIDER) at its premises.

PROCEDURE FOR AMENDMENT, CANCELLATION, ARBITRATION AND EXCLUSIVITY

The Agreement between the client and (NAME OF SERVICE PROVIDER) may be renegotiated/amended after recording the same in writing and inserting or attaching to the main agreement, if at any time during its term of the contract, the work or environment of the CLIENT and/or (NAME OF SERVICE PROVIDER) is so altered that the contents of the memorandum are no longer appropriate. Such an amended agreement will have the effect of updating the agreement

TERMINATION OF AGREEMENT:

a. The Client Events of Default:

If the 'CLIENT' causes the undermentioned events or circumstances and does not cure those default(s) within sixty (60) days from the date of the Default Notice from (NAME OF SERVICE PROVIDER) the same shall be treated as default on the part of the client for the purpose of the agreement.

- i) The CLIENT is in breach of its obligations under the agreement, which has a Material Adverse Effect upon the "(NAME OF SERVICE PROVIDER)" or the project.
- ii) The CLIENT is in breach of any representation or warranty made under the Agreement or it repudiates this Agreement.
- iii) The CLIENT fails to pay the (NAME OF SERVICE PROVIDER) the consideration as applicable.

b. Termination by the “(NAME OF SERVICE PROVIDER)”

Upon occurrence of Default or Event of Default by the ‘CLIENT’, THE ‘(NAME OF SERVICE PROVIDER) ’ shall issue a Termination Notice to the “CLIENT” giving a further period of sixty (60) days (the termination period) to make a representation and if, during the Termination Period, the “CLIENT” takes suitable steps to remedy the situation, the ‘(NAME OF SERVICE PROVIDER) ’ shall be entitled to withdraw the termination notice. The Agreement will automatically terminate on the expiry of the Termination Period, if not withdrawn by (NAME OF SERVICE PROVIDER) and termination notice will be issued by (NAME OF SERVICE PROVIDER) in writing on the address of the client.

c. “(NAME OF SERVICE PROVIDER)” Event of Default

If the undermentioned events or circumstances are caused by the default of (NAME OF SERVICE PROVIDER) and are not cured within sixty (60) days from the date of issue of default notice from the Client, those events will be considered as events of default by the (NAME OF SERVICE PROVIDER) .

- i. The “(NAME OF SERVICE PROVIDER) ” is in breach of its obligations under the Agreement, which has a material adverse effect upon the “CLIENT” or the project.
- ii. The “(NAME OF SERVICE PROVIDER) ” is in breach of any representation or warranty made under this Agreement or it repudiates the Agreement.
- iii. The “(NAME OF SERVICE PROVIDER) ” abandons the Project or any of its material obligations as provided under the Agreement.

d. Termination by the “CLIENT”

Upon occurrence of default or event of default by (NAME OF SERVICE PROVIDER) , the client shall issue a termination notice to (NAME OF SERVICE PROVIDER) giving a sixty (60) days (termination period) to make a representation and if during the termination period, the (NAME OF SERVICE PROVIDER) take suitable steps to remedy the situation, the client shall be entitled to terminate notice. The agreement would automatically terminate on expiry of termination period if (NAME OF SERVICE PROVIDER) fails to cure the default during that period and termination notice will be issued by client in writing on the address of (NAME OF SERVICE PROVIDER) mentioned in the agreement.

CONSEQUENCES OF TERMINATION

In case of termination of the agreement, the terms specified in the agreement shall cease to exist and shall not be enforceable and neither the client nor the ESSL shall have any claim against each other except any legitimate dues pending with either party during the currency of the agreement.

SCHEDULE OF RATES FOR WET LEASE OF E-CARS

The monthly lease rental per car shall be negotiated by the client and shall not exceed INR _____ exclusive of GST with a yearly escalation of _____% over the preceding years of lease rental and vehicles running more than _____ Km in a month extra charge of INR ____/km shall be paid by the CLIENT. The overtime for uses of each e-car beyond _____ hours per month shall be paid, over and above the lease rent, by the CLIENT at the following rates:

Overtime charges per hour= Hourly Minimum Wages as defined by Central Labour Commission multiplied by ____ (the current overtime rates in Delhi (NCR) are INR _____).

The expenses on account of parking, toll, power consumption on account of charging of cars, etc. would be borne by the CLIENT. The miscellaneous expenses would be borne by the (NAME OF SERVICE PROVIDER) .

SCHEDULE OF RATES FOR DRY LEASE OF E-CARS (WITHOUT CHAUFFERS)

- 1) The lease rental shall be negotiated and shall not exceed INR _____ per month per car
- 2) For vehicles running more than _____ km a day extra charge of INR ____ per km shall apply
- 3) Toll tax, parking charge, and octroi (MCD) would be paid by the CLIENT directly at the collection points
- 4) The other terms and conditions would be same as in the case of Wet Lease.

DISPUTE RESOLUTION

The agreement shall be governed by and construed in accordance with laws of India and the courts of NCT of Delhi will have exclusive jurisdiction in the matter and the parties shall endeavor to settle any dispute through amicable consultations and negotiations. If no amicable settlement is reached within 30 days from the commencement of such consultations, either party may refer such dispute to arbitration under the arbitration and Conciliation Act, 1996 (or any amendment or reenactment thereof) by a sole arbitrator to be appointed mutually by the (NAME OF SERVICE PROVIDER) and the CLIENT. The venue of arbitration shall be at Delhi. All arbitration proceedings shall be conducted in accordance with the governing law specified above.

LIMITATION OF LIABILITY

Under no circumstances shall, CLIENT have any liability for loss or damage for goodwill or other special, indirect, consequential, exemplary, incidental or punitive damages, whether in contract, tort or any other theories in law or equity, even if CLIENT has been advised of the possibility of such damages.

PUBLICITY AND BRANDING

Neither the 'CLIENT' nor (NAME OF SERVICE PROVIDER) shall undertake any publicity or branding in any form of the Agreement entered into between them without the approval of each other.

INDEPENDENT CONTRACTOR

(NAME OF SERVICE PROVIDER) shall be deemed to be acting as an independent contractor of the 'CLIENT' while performing its obligation towards the Agreement and shall not be an agent, legal representative, partner of or in joint venture with the Customer and neither party shall be binding the other to any obligation, affirmation or commitment with respect to any other person or entity.

ASSIGNMENT

The agreement, including any obligation under the agreement shall not be assigned, delegated or transferred without the prior consent of the other party except that (NAME OF SERVICE PROVIDER) may assign, delegate or transfer this Agreement to any of its Affiliates till that entity remains its Associate.

NOTICES

All notices under the Agreement shall be in writing and deemed to be effective upon receipt when delivered personally or sent by commercial overnight courier with written verification of receipt or sent by certified or registered mail, postage prepaid and return receipt requested.

WAIVER

No term or provision of the Agreement will be waived by either party except with the consent of both parties in writing.

NON-EXCLUSIVITY

The Agreement shall be non-exclusive for both the "Client" and (NAME OF SERVICE PROVIDER) in the sense that (NAME OF SERVICE PROVIDER) shall be free at all times to provide same or similar services as envisaged in the agreement to any third party. Similarly, the "Client" may take same or similar services on lease from any other legal entity.

SUSPENSION OF SERVICES

(NAME OF SERVICE PROVIDER) reserves the right to suspend services and remove the E-cars from e facility of the "client" in case there is delay of payment for a continuous period of 60 (sixty) days from the date of raising of the invoice and delivering to the "client".

FORCE MAJEURE

Both the client and (NAME OF SERVICE PROVIDER) shall make suitable provisions for force majeure.

PENALTY CLAUSE

Violation of service condition would attract the provisions of the penalty clauses provided in the schedule to the agreement.
