

Terms and Conditions

A) **OPERATION OF PRIVATELY - OWNED RAIL PASSENGER CARS ("Private Railcars") ON VIA RAIL CANADA INC. ("VIA") TRAINS**

The following rules and regulations are applicable to the movement of Privately - Owned Rail Passenger Cars on VIA trains:

GENERAL CONDITIONS

1. VIA will only move Private Railcars at the tail end of its trains. VIA however, will not accept any privately owned railcars on its trains with a panoramic dome car at the tail end.
2. As for the rest, VIA will attempt to accommodate the coupling of Private Railcars on its trains where it is, in VIA's judgement, technically feasible to do so without hindering train operations and trip schedules, or result in unusual additional cost. VIA shall be the sole judge of which trains can accommodate private railcars, between which points they may be moved, and on what dates they can be handled. Cars must be positioned in the train in such a way as to allow for safe movement.
3. VIA will not permit passengers to occupy the open platform on private railcars being handled on VIA trains while the train is in motion.
4. VIA may permit a reduction in scheduled train timetable speed in order to accommodate a privately owned railcar on its Corridor train services. VIA will confirm accordingly. All private railcars handled on VIA trains will be considered to be a VIA car(s) while on the VIA train(s) and as such must meet all VIA operational rules and regulations. No private railcar will be permitted to operate on VIA's express train services e.g. Nos. 66-67, on LRC trains requiring car banking (tilting), on trains with Renaissance equipment (unless a transition car is available, for an additional rental charge), and on trains required to operate at 100 mph on portions of the trip.
5. VIA will not permit additional enroute station dwell time in order to accommodate a private railcar movement except, at VIA's option, where operationally and economically feasible.
6. VIA will only operate private railcars at the rear end of consists.
7. VIA may, at its discretion, provide shop maintenance, repair or overhaul services for private railcars at VIA's maintenance centers.

8. Switching will not be performed at any point where such is not usually performed or where, at VIA's sole option, there is insufficient time to make the move without materially delaying the train.
9. Owner or mandataries agree to defend, indemnify, and save harmless VIA, its officers, directors, employees, agents or representatives, irrespective of any negligence or fault on their part, or howsoever the same shall occur or be caused, from any and all claims, liabilities, damages, or expenses of any kind, including attorney's fees, for injury to, or death of any person(s) and for loss, damage or destruction to any property which arises out of or would not have been incurred but for the use, occupancy, parking, storage handling or movement of the railcar. Owner releases and waives any claim against VIA, its officers, directors, employees, agents or representatives, irrespective of any negligence or fault on their part, or howsoever the same shall occur or be caused, for any loss damage, or destruction to the car or other property of the Owner.
10. Owner shall assume all costs of repairs to or replacement of his equipment made necessary as a result of damage or destruction occurring while such equipment is on VIA's trains.
11. Without restricting the generality of Article 9 (above), during the term of this Agreement, Owner shall obtain and maintain Comprehensive General Liability Insurance covering the liability of the Owner, its employees, agents, representatives and sub-contractors for bodily injury including death, and property damage of limits of not less than five million dollars (\$5,000,000.00) Canadian per occurrence. The policy shall include VIA as an additional insured and shall provide for Railroad Operation coverage, cross liability and contractual liability coverage. The policy shall also contain an endorsement to provide VIA with a 30 day written advance notice in the event that such policy is materially altered or cancelled. Upon agreement, Owner shall furnish VIA with a certificate of insurance of the policy referred to herein. No movement will be made without a certificate of insurance in the above-mentioned amount.
12. The acquisition and maintenance of insurance by Owner under Article 11 (above) shall in no manner limit or restrict the liabilities or responsibilities of Owner under this Agreement.
13. Whenever applicable, Owners must confirm to VIA that their employers' liability is covered under "Part Two" of their "Workers Compensation Policy" and that such policy includes a Federal Employers' Liability Act (FELA) Endorsement whenever applicable to Owners' employees. For those Employers having operations in the so called "monopolistic states", VIA should be provided with evidence that a "Stop Gap" endorsement is available through a policy underwritten in another state or under their Comprehensive General Liability policy.

STANDARDS AND INSPECTION

14. The railcar(s) must meet minimum AMTRAK and FRA, interchange standards and be subject to a one (1) year inspection and certification by AMTRAK Mechanical Department or its authorized representative. Railcar(s) must be tight-lock coupler, roller-bearing equipped, and diaphragms must be fully compatible with all AMTRAK and VIA equipment. Private railcars must be equipped with an operational call bell on each end, if they are to be locked en route. Railcar(s) approved to operate on the rear of the train must have an FRA approved marker device.
15. Inspection of private rail cars will be made at an AMTRAK car facility to meet FRA regulations. If exterior modifications have been made, the owner must furnish AMTRAK and VIA Rail with clearance diagrams showing the revised and current exterior dimensions from ATR.
16. VIA will not bear any expense to place private railcars into service. During a period of use VIA will, to the extent of practical, if authorized by the owner or by a third party designated by the owner, provide running repairs to the railcar(s) including necessary labor and materials, at standard rates which will reflect VIA's material, labour, and overhead costs. Running repairs are defined as those repairs necessary for the movement of the rail car. The costs of repairs so authorized will be borne by the rail car owner.

REQUEST, DEPOSIT AND PAYMENT PROCEDURES

17. All requests for movement on VIA trains must be received in writing on a fully completed VIA "Private Car Movement Request" form. Incomplete requests will be returned to originator. Requests can be sent up to one hundred and twenty (120) days in advance but no later than 15 business days prior to requested first railcar movement date. Upon receipt of the request, VIA will provide a quotation covering the total cost of the move (the quotation is not deemed to be a confirmation by VIA of the move). The quotation will also be accompanied with any appropriate message on restrictions, constraints and/or an indication of the expected confirmation date by VIA. If the quotation is accepted by the private railcar owner or its mandatary, VIA will provide a confirmation and the agreement to be signed by both parties. Requests received by VIA more than three (3) months in advance will be considered without the current Mechanical Equipment Certification for the duration of the requested trip, provided the owner will ensure a current original certificate is received by VIA no later than twenty (20) days before the first move. Non-compliance will result in an automatic trip cancellation and application of service charges. In addition, VIA will only honor requests for railcar movement

from the railcar owner(s) and not third parties. Requests should include AMTRAK ID number with complete identification of separate arrangements made with a carrier terminal facility or others. Owner will indicate the number of passengers exceeding twenty (20) persons per car.

18. Notwithstanding any arrangements made with AMTRAK, VIA must be advised of the private railcar movement at the same time as AMTRAK and no later than fifteen (15) days prior to the scheduled movement.
19. The owner or its mandatary at signature of the agreement will make a down payment of 15% based on the total quoted by VIA. The remaining balance including the cost of the move, all parking, switching and other charges will be payable in full seven (7) days prior to the first move of the railcar. Payments are to be made to VIA Rail Canada Inc.
20. Failure to pay applicable charges in full, no later than seven (7) days prior to the first car movement, will result in the cancellation of the entire requested movement and a service charge will be assessed.
21. Confirmed itinerary changes requested by owner in writing will be considered by VIA, if operationally and economically feasible. A request change, as identified below, for a confirmed itinerary received thirty (30) days or more in advance will be considered at no extra charge. A service charge of ten (10) percent of the total transportation (mileage) charge, up to a maximum of four hundred dollars (\$400) Canadian, will be assessed for change in date(s), train or itinerary, occupancy status, addition, reduction or substitution of car(s) to be handled, or partial cancellation, if received between twenty nine (29) to fifteen (15) business days prior to the first segment of the confirmed move. Should all of the confirmed itinerary be cancelled by the owner, the following cancellation charges will apply:
 - a) Prior to thirty (30) days of confirmed departure - no charges;
 - b) Twenty one (21) to twenty nine (29) days prior to confirmed departure - fifteen (15) percent of total invoice;
 - c) Fifteen (11) to twenty (20) days prior to confirmed departure - twenty five (25) percent of total invoice;
 - d) Three (3) to ten (10) days prior to confirmed departure - fifty (50) percent of total invoice;
 - e) Two days or less prior to confirmed departure- no refund.

These service charges apply to any cancellation of confirmed private car movement, regardless of whether the owner submits a new request for the same car or itinerary for a new date.

22. Movement will not be accepted until payment is made. Invoices to be paid as billed. If owner disputes charges, the owner must identify specific charges and why questionable, credit will be issued for disputed charges found in owner's favor. The credit request, with all applicable supporting documentation, must be submitted in writing no later than sixty (60) days after the move is completed.

B) PARKING OF PRIVATELY OWNED RAIL PASSENGER CARS

The following rules and regulations are applicable to parking of privately-owned rail cars by VIA

DEFINITION AND CHARGES FOR PARKING

1. Unoccupied Dead Storage Long term (over thirty (30) days)

Railcar is parked with no hotel power and there is no access by owner and / or attendants allowed on board.

2. Occupied (Guests or Crew) Storage

Railcar is parked at a location generally accessible to the travelling public, with hotel power (wherever available), and servicing (potable water, garbage pickup).

3. Basic parking charges

Basic parking charges for each overnight stay will be charged based on the above parking definitions. If VIA is charged a higher fee, then the higher fee will be quoted to the private car owner.

4. Sanitation Services

Additionally, when sanitation services are requested in advance and can at VIA's discretion, be provided, a supplemental charge will be made. If sanitation services are requested and cannot be provided, then the private railcar must be self-contained for occupied parking. When VIA is charged a higher fee by a railroad or terminal company, as identified by VIA, then the higher fee will be charged to the private railcar owner.

CONDITIONS FOR PARKING

5. Parking charges apply when railcar are in transit and are temporarily held at a point en route or at destination for the convenience of passengers. Parking charges still apply when a railcar remains with the train consist at turnaround locations. No charges will be made at a location, due to late trains and missing connections.
6. Parking charges will include those services specifically requested by the railcar user or owner, such as sanitation, dry ice, standby electric power, at locations where such regular facilities for providing such services are available. At other locations where regular facilities for providing such services are not available and must be specially provided, additional charges as specified by VIA will be applied.
7. VIA shall attempt to make parking and switching arrangements, as requested subject to the concurrence and conditions imposed by operating railroad of facilities, but reserves the right to refuse any request, where, in VIA's judgment, facilities and switch engines are not available and unusual costs would be incurred. VIA shall be the sole judge of where rail cars may be parked or switched, of the number of cars which may be parked or switched and on what date they can be parked or switched.
8. Railroad-owned business cars are parked and switched on lines of the owning railroad, as per mutual agreement. However, the provisions of this section will apply to the parking and switching by VIA of railroad-owned business cars on other than the owning railroad.
9. Owner or its mandataries agree to defend, indemnify, and same harmless VIA, its officers, directors, employees, agents or representatives, irrespective of any negligence or fault on their part, or howsoever the same shall occur or be caused, from any and all claims, liabilities (including liabilities assumed pursuant to indemnity contract) damages, or expenses of any kind, including attorney's fees, for injury to, or death of any person(s) and for loss, damage or destruction to any property which arises out of or would not have been incurred but for the use, occupancy, parking, storage handling or movement of the rail car. Owner hereby releases and waives any claim against VIA, its officers, directors, employees, agents or representatives irrespective of any negligence of fault on their part, or howsoever the same shall occur or be caused, for any loss damage, or destruction to the car or other property of the Owner.
10. Without restricting the generality of Article B-5 (above), during the term of this Agreement, Owner shall obtain and maintain a Comprehensive General Liability insurance covering the liability of the Owner, its employees, agents, representatives and sub-contractors for bodily injury including death, and property damage of limits of not less than five million

dollars (\$5,000,000) Canadian per occurrence. The policy shall include VIA as an additional insured and shall provide for Railroad Operation coverage, cross liability and contractual liability coverage. The policy shall also contain an endorsement to provide VIA with a thirty (30) day written advance notice in the event that such policy is materially altered or cancelled. Upon agreement, Owner shall provide VIA with a Certificate of Insurance of the policy referred to herein.

11. The acquisition and maintenance of insurance by Owner under Article B-6 (above) shall in no manner limit or restrict the liabilities or responsibilities of Owner under this Agreement.
12. Whenever applicable, Owners must confirm to VIA that their employers liability is covered under "Part Two" of their "Workers Compensation Policy" and that their policy includes a Federal Employers' Liability Act (FELA) Endorsement whenever applicable, For those Employers having operations in the so called "monopolistic states", they should provide VIA with an evidence that a "Stop Gap" endorsement is available through a policy underwritten in another state or under their Comprehensive General Liability policy.
13. Private railcar owners should detail in their request what arrangements they have or will make separately with the other railroads.
14. At selected VIA facilities, VIA will permit, at its sole discretion, long or short term private equipment parking.
15. Depending on factors such as parking location, availability and duration, VIA will provide, when it deems necessary, special security / guard services specific to the railway cars. The related charges will be included in the agreement at the Owner's expense. Should Owner require special security measures or services to protect a private railway car, its content or its occupants, VIA should be advised. VIA will then make the necessary arrangements and include the charges in the agreement.

Agreements for private railcar movements shall be governed by and interpreted in all respects in accordance with Québec law and the parties shall elect domicile under the jurisdiction of the courts in the District of Montréal, Québec, Canada.

Private Railcar Moves

2009 Rates

For the services provided by VIA herein, the Private Rail Car Owner shall pay as hereinafter provided.

- 1.1 Four dollars (\$4.00) per car mile with a minimum charge of seven hundred and seventy-five dollars (\$775.00) per car movement.
- 1.2 Switching shall be four hundred and fifty dollars (\$450.00) per event.
- 1.3 Cutting or adding without switching shall be three hundred and ten dollars (\$310.00) per event.
- 1.4 Looping, wyeing or turning shall be three hundred and ten dollars (\$310.00) per event.
- 1.5 Unoccupied Dead Storage - Long term shall be seventy dollars (\$70.00) per car per day.
- 1.6 Occupied (Guests or Crew) storage shall be three hundred eighty dollars (\$380.00) per car per day
- 1.7 In the event that VIA is charged fees higher than the ones indicated in Sections 1.5 and 1.6, then the higher fee will be applicable to the Private Rail Car Owner.
- 1.8 Labour shall be at ninety-eight dollars (\$98.00) per hour, and one hundred and twenty-five dollars (\$125.00) per hour for overtime and statutory holidays.
- 1.9 Material and services shall be at cost plus thirty five percent (35%).
- 1.10 All amounts are in Canadian Funds.