

WAPCOS LIMITED
(A Government of India Undertaking)
76-C, Institutional Area, Sector-18, Gurugram-122015, Haryana

Circular No.: WAPCOS/2026/01-01

Date: 13.01.2026

CIRCULAR

Subject: Deletion of Arbitration Clauses from All Future Domestic Contracts of WAPCOS and Introduction of a Revised Non-Arbitral Dispute Resolution Framework

Background

1. Your attention is invited to the Circular dated 28.11.2019, which required that all contractual disputes with associates, sub-consultants, and sub-contractors be resolved through a structured mechanism culminating in arbitration by a Sole Arbitrator appointed by CMD, WAPCOS.
2. This arrangement was premised on the belief that arbitration would promote efficiency, economy, and early closure of disputes. However, based on the accumulated institutional experience of WAPCOS and further supported by the policy guidance in Office Memorandum No. F.1/2/2024-PPD dated 03.06.2024 issued by the Department of Expenditure, Ministry of Finance, GoI, the continuation of arbitration clauses in WAPCOS' domestic operations now requires comprehensive reconsideration.
3. After careful examination of the matter and due consideration of WAPCOS's own experience, it has been decided to adopt the policy guidance set forth in the Office Memorandum dated 03.06.2024 issued by the Ministry of Finance, as appropriately adapted to the specific operational needs and circumstances of the Company.
4. Consequently, it has been consciously decided that arbitration clauses under the Arbitration and Conciliation Act, 1996, shall be omitted from all future domestic contracts.

Revised Dispute Resolution Framework (Non-Arbitral)

5. In supersession of the Circular dated 28.11.2019, the following three-tier non- arbitral dispute resolution mechanism shall apply to all future domestic contracts of WAPCOS after the date of Issuance:

I. Tier-I: Engineer-in-Charge (EIC) Determination

Parties shall first refer disputes to the EIC, who shall examine the issue, undertake site level verification, if required and issue a reasoned decision within 30 days.

II. Tier-II: Review by Departmental Review Committee (DRC)

Either party may escalate the matter to DRC, which shall undertake an administrative review and pass a speaking order within 30 days , extendable once by a further period of 30 days for reasons to be recorded in writing . The review will be primarily "record-based" and oral hearing can be granted at the discretion of the committee.

III. Tier-III: Mandatory Mediation

If unresolved, the matter shall be taken to mediation under the Mediation Act, 2023 through a recognised mediation service provider. The mediation shall be conducted in accordance with the timelines and procedures prescribed under the Mediation Act, 2023.

IV. Civil Court Jurisdiction

In the event that the multi-tier dispute resolution mechanism is exhausted without resolution, any disputes arising out of or in connection with the contract shall be subject to the exclusive jurisdiction of the competent courts at Delhi only, where the Company's Registered Office is situated.

V. No arbitration clause shall be incorporated in any domestic contract.

Applicability

6. This Circular applies to all domestic EPC, consultancy, supply, service, and sub-contract agreements executed by WAPCOS after the date of issuance. Existing contracts shall continue to be governed by the terms originally agreed.
7. The conditions to be incorporated in all future contracts are enclosed herewith this circular.

The Standard Condition for incorporation in all fresh Tenders, Contracts and NIT is enclosed as Annexure-I.

These issues with the approval of the Competent Authority.



(Amitabh Tripathi)
Director (Commercial & HRD)

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STANDARD CONDITIONS FOR INCORPORATION IN ALL FRESH TENDERS, CONTRACTS AND NITs

**1. GOVERNING LAW, JURISDICTION & WAIVER OF ALTERNATIVE REMEDIES
- CLAUSE 1**

- 1.1. **Governing Law:** This Contract shall be governed and interpreted strictly in accordance with the laws of India. No foreign law, conflict-of-laws principle, or external rule shall apply, unless expressly mandated by a funding agency and separately approved in writing by the Competent Authority.
- 1.2. **Exclusive Jurisdiction:** Subject to prior exhaustion of the internal dispute-resolution tiers stipulated in this Contract, the Parties agree that all suits, actions, or proceedings arising out of or in connection with this Contract, including its formation, validity, performance, breach, or termination, shall be instituted exclusively before the competent civil courts at Delhi, being the place where the Company's Registered Office is situated, to the exclusion of all other courts. The Parties irrevocably waive any objection relating to forum non conveniens, place of suing, or inconvenience.
- 1.3. **Exclusion of arbitration & consensual ADR:** The Parties unequivocally agree that no dispute shall be referred to arbitration, conciliation, expert determination, Dispute Review Board, or any other form of consensual alternative dispute resolution, except where statutorily mandated (e.g., MSMED Act). This exclusion is without prejudice to the mandatory pre-litigation mediation process stipulated in Clause 2.3 below.
- 1.4. **The parties expressly agree** that there is no arbitration agreement between them and they irrevocably waive any right to invoke arbitration under the Arbitration and Conciliation Act, 1996 or to constitute an arbitral tribunal in any manner whatsoever.

2. STRUCTURED INTERNAL DISPUTE RESOLUTION MECHANISM (SIDRM)

2.1. Tier-I: Dispute resolution by Engineer-in-Charge (EIC)

- 2.1.1. **Notice of Dispute:** Any Dispute must be notified in writing to the EIC within 21 days from the date on which the aggrieved Party became, or ought reasonably to have become, aware of the event giving rise to the Dispute.
- 2.1.2. **Contents of Notice:** The notice shall contain (i) complete facts and chronology; (ii) precise contractual clauses invoked; (iii) a quantified claim with calculations; and (iv) full supporting records such as drawings, DPRs, MBs, photographs, test results, correspondence, and site registers. Vague, omnibus, or un-particularised notices shall be summarily rejected without prejudice to WAPCOS.
- 2.1.3. **EIC's Decision:** The EIC shall examine the matter, including through joint site verification or expert inputs as needed, and shall issue a speaking order within 30 days of receiving a complete notice.

- 2.1.4. **Binding Effect:** The EIC's decision shall bind both Parties unless a written request seeking escalation to Tier-II is filed within 15 days from the date of issuance of EIC's decision. Absence of a timely request shall render the EIC decision final.

2.2. Tier-II: Departmental Review Committee (DRC)

- 2.2.1. **Constitution:** A standing Departmental Review Committee, consisting of three senior officers including two Technical and one Finance/ Account officer, shall independently review disputes escalated from Tier-I.
- 2.2.2. **Review Process:** The DRC shall conduct a record-based administrative review of the Tier-I file, supplemented by written submissions from the Contractor. The committee may permit oral hearings if it deems them necessary for a fair decision.
- 2.2.3. **Decision & Finality:** The DRC shall deliver reasoned determination within 30 days of referral, extendable once by 30 days for, if resolution takes time, with reasons recorded. This determination shall constitute the final administrative decision of WAPCOS.

2.3. MANDATORY PRE-LITIGATION MEDIATION

- 2.3.1. **Obligation to Mediate:** Following the DRC decision (or deemed decision), either Party may initiate pre-litigation mediation. Where the dispute qualifies as a 'commercial dispute' under the Commercial Courts Act, 2015, this mediation shall satisfy the mandatory pre-litigation requirement under Section 12A of the said Act.
- 2.3.2. **Mediation Parameters:** Mediation shall be conducted by a mediator empanelled with the High Court or a Government-notified mediation service provider in accordance with the Mediation Act, 2023. The timelines and extension provisions stipulated in the Act shall apply.
- 2.3.3. **Approval of Settlement:** Any mediated settlement agreement shall be subject to final written approval and execution by the Competent Authority of WAPCOS. The mediator shall be informed at the outset that the authorized representative of WAPCOS does not have the inherent power to bind WAPCOS to a settlement without such approval. If such approval is not granted within 30 days of the settlement terms being presented, the settlement shall be deemed not concluded, and the mediation shall be treated as unsuccessful.

3. CIVIL COURT JURISDICTION & CONSEQUENCES OF BREACH

- 3.1. **Exhaustion of Remedies:** A Party may file a civil suit only after (a) obtaining a DRC decision or deemed decision, and (b) participating in the mandatory mediation process and obtaining a failure report.
- 3.2. **Mandatory Pleadings:** Every plaint shall specifically demonstrate compliance with Tier-I, Tier-II, and Tier-III requirements. Failure to do so shall render the plaint liable to rejection.
- 3.3. Any attempt to initiate arbitration or file a civil suit without first exhausting the mandatory tiers stipulated above shall constitute a material breach of contract. WAPCOS shall be entitled to seek appropriate relief from the court, including but not limited to an injunction to restrain such proceedings, and to recover all associated costs and expenses.

4. GENERAL PROVISIONS

- 4.1. **Severability:** If any portion of this Clause is invalidated by a court, the remaining parts shall remain in force.
- 4.2. **Amendment:** This Clause may be amended only by a written instrument signed by the CMD or an expressly authorized officer of WAPCOS.
- 4.3. Failure to continue performance shall constitute a material breach entitling WAPCOS to terminate the Contract without prejudice to its other right.