

BHARUCH DAHEJ RAILWAY COMPANY LIMITED

CONCESSION AGREEMENT

BETWEEN

MINISTRY OF RAILWAYS

GOVERNMENT OF INDIA

AND

BHARUCH DAHEJ RAILWAY COMPANY LIMITED

JUNE 25, 2008

CONCESSION AGREEMENT

between

Ministry of Railways

Government of India

and

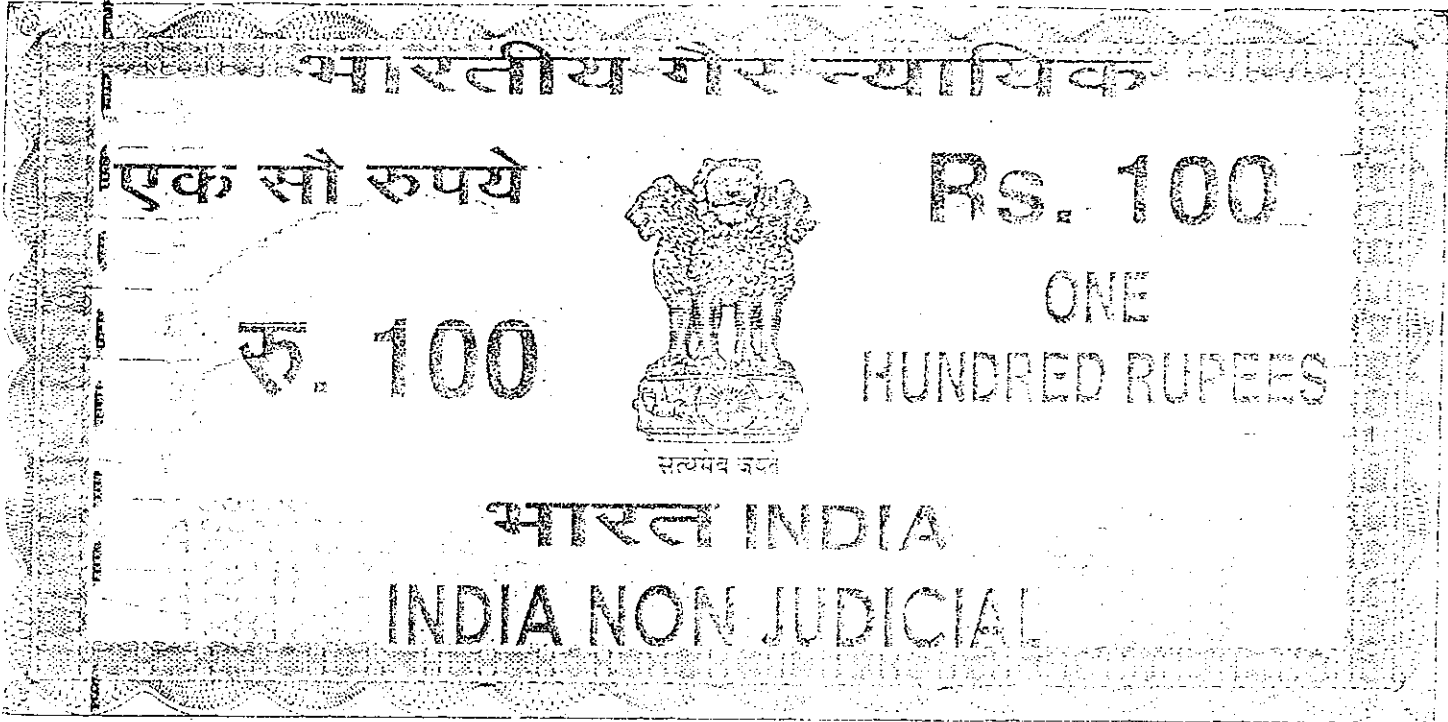
Bharuch - Dahej Railway Company Limited

for

Gauge Conversion from Bharuch to Dahej via Samni

On -

Western Railway



दिल्ली DELHI

124285

CONCESSION AGREEMENT

This Concession Agreement is signed at New Delhi on this 25th June, 2008

BETWEEN

THE PRESIDENT OF INDIA, acting through the Executive Director, Traffic (PPP) of the Ministry of Railways, Government of India, Rail Bhawan, New Delhi (hereinafter referred to as "**Concessioneing Authority**", which expression shall unless repugnant to the context and meaning thereof, include its successors in office, representatives and permitted assigns), of the **FIRST PART**

AND

BHARUCH - DAHEJ RAILWAY COMPANY LIMITED, a company incorporated under provisions of the Companies Act, 1956, having its registered office at August Kranti Bhawan, Bhikaji Cama Place, New Delhi - 110066,

Page 2 of 48

Let's.

Let's.

India (hereinafter referred to as "BDRCL" or "the Company" which expression shall, unless repugnant to or inconsistent with the context, mean and include the successors and permitted assigns) of the OTHER PART.

Each being referred to as a "Party" and jointly as the "Parties".

WHEREAS, Ministry of Railways (MoR), Government of India have launched National Rail Vikas Yojana for speedy development of Rail infrastructure which includes de-bottlenecking of Golden Quadrilateral, providing port connectivity and development of corridors to hinterland;

And whereas, National Rail Vikas Yojana being largely a non-budgetary initiative envisages public-private partnership model of financing and implementation of certain railway infrastructure;

And whereas, Ministry of Railways has set up Rail Vikas Nigam Limited (RVNL) for implementing National Rail Vikas Yojana. A Memorandum of Understanding has been signed on October 16, 2003 between Ministry of Railways and RVNL for creating project specific Special Purpose Vehicle.

And whereas, Bharuch - Samni - Dahej Gauge Conversion Project is a sanctioned project of Ministry of Railways and is an identified project to be undertaken under this Yojana;

And whereas, Rail Vikas Nigam Limited ("RVNL"), Gujarat Industrial Development Corporation ("GIDC") and Gujarat Maritime Board ("GMB") have signed an MOU on 13.01.2005 for implementing Bharuch - Samni - Dahej Railway Gauge Conversion Project through a Special Purpose Vehicle.

And whereas, Rail Vikas Nigam Limited, Gujarat Maritime Board, Adani Petronet (Dahej) Port Private Limited, Gujarat Narmada Valley Fertilizers Company Limited and Dahej SEZ Limited have signed the Shareholders Agreement for Bharuch Dahej Railway Company Limited ("BDRCL") on 12.01.2007 and Jindal Rail Infrastructure Ltd. & Hindalco

[Handwritten signature]

[Handwritten mark]

Industries Ltd have signed the Participation agreement on 16-06-2008. in order to take over the responsibility for implementation of the Project which shall include raising the necessary finances for the Project, completion of Civil Works, installation of equipment and facilities for the Project, testing and commissioning and subsequent operations and maintenance of the railway line for a period as specified in the Concession Agreement.

In pursuance of the aforesaid understandings, the parties have agreed to enter into this Concession Agreement for setting up a suitable framework, under which BDRCL can undertake all the activities connected with the development, financing, design, construction, operation and maintenance of the Project;

NOW THIS AGREEMENT WITNESSETH AND IT IS HEREBY AGREED BY AND BETWEEN THE PARTIES AS FOLLOWS:

1. PRELIMINARY

1.1 Definitions

In this Agreement, the following words and expressions shall, unless repugnant to the context or meaning thereof, have the meaning hereinafter respectively assigned to them:

“Additional Facilities” means the facilities which BDRCL may provide or procure for the benefit of the users of the Project Railway and which are in addition to the facilities planned in the project estimate prepared and sanctioned by RVNL, and includes additional stations and freight handling facilities.

“Affected Party” shall have the meaning set out in Article 10.1.

“Agreement” means this Agreement, and any amendments thereto made in accordance with the provisions contained in this Agreement.

“Applicable Law” means all laws, promulgated or brought into force and effect by the Government of India or the Government of Gujarat or the

Ratt.

22/07/08

concerned municipal/local government including regulations and rules made there under, and judgments, decrees, injunctions, writs and orders of any court of record or tribunal, as may be in force and effect during the subsistence of this Agreement.

“Applicable Permits” means all clearances, permits, authorizations, consents and approvals required to be obtained or maintained under Applicable Laws in connection with the design, engineering, financing, procurement, Construction, Operations and Maintenance of the Project Railway during the subsistence of this Agreement.

“Appointed Date” means the date of signing this Agreement.

“Bank” means any scheduled commercial bank in India.

“Book Value” means the value of the New Assets and Additional Facilities created by the Concessionaire, net of depreciation charged on the basis of the straight line method, and amortized equally over a period of Operations Period, commencing from COD.

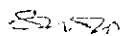
“Broad Gauge Track” means a railway track with a gauge of 1676 mm.

“Change in Law” means the occurrence or coming into force of any of the following, at any time after the Appointed Date.

- a. enactment of any new Indian law;
- b. repeal, modification or re-enactment of any existing Indian law;
- c. commencement of any Indian law which has not come into effect until the date of this Agreement;
- d. a change in the interpretation or application of any Indian law by a competent court or tribunal.

“Commercial Operations Date” or “COD” means the date on which the Safety Certificate has been issued for freight operations by Chief Engineer, Western Railway (WR).

“Commercial Exploitation” means the right of the Concessionaire to put the Project Assets to commercial use, as permitted under Applicable



Laws and rules framed by MoR.

“Commissioning” of the Project Railway means:

- a. In the case of commissioning of freight operations, the issue of the Safety Certificate by the Chief Engineer of Western Railway; and
- b. In the case of commissioning for public carriage of passengers, the issue of the Safety Certificate by the Commissioner of Railway Safety, Mumbai.

“Company” means BDRCL.

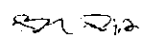
“Concession” means the authorization granted by the Concessions Authority to the Concessionaire to develop, finance, design, engineer, procure, construct and operate & maintain the Project Railway and to exercise and/or enjoy the rights, powers, benefits, privileges, authorizations and entitlements as set out in this Agreement during the Concession Period.

“Concession Period” shall have the meaning ascribed thereto in Article 4.6.1 of this Agreement.

“Construction” means and includes all activities required for Commissioning the Project Railway.

“Construction Period” means the period beginning from the Appointed Date and ending on Commissioning.

“DRV” means depreciated replacement value of New Assets and Additional Facilities and is the aggregate cost of replacing each asset on Termination Date minus aggregate depreciation on straight line method, where depreciation on straight line method for each asset means the number of years the asset has been in use divided by the useful life of the asset multiplied by the cost of replacement of asset on Termination Date. The asset life shall be computed as per the provisions in the codes and manuals of the MoR. Where the life of an asset is not mentioned in the MoR codes/manuals, it shall be decided mutually between MoR and the Company. The cost of replacement of each asset shall be determined by



the then prevailing accepted rate for the relevant assets of MoR.

"Existing Assets" means and includes the land, station buildings, narrow gauge formation, bridges, and all other assets which already existed in the Project Area as part of the earlier railway network upto Dahej and which shall be used for Gauge Conversion but excludes the assets and materials such as narrow gauge rails, sleepers, fastenings, signaling gears and electrical equipment, and other non-operational assets like staff colonies, welfare structures and non-operational land/buildings which are not required for Gauge Conversion. It also means and includes (a) original land of Western Railway for the Project and (b) fresh land acquired by Western Railway for the project, which is financed by the Company.

"Expiry" means natural cessation of the Concession which shall be 30 years from the COD or such extended period as provided under this Agreement.

"Expiry Date" means the date on which Expiry occurs.

"Financial Year" means the period commencing on 1st April of a calendar year, and ending on the 31st March of the immediately following calendar year.

"Financing Documents" mean collectively the documents evidencing Lenders' commitment to finance the Project.

"Force Majeure" or "Force Majeure Event" means an act, event, condition or occurrence as specified in Article 10.

"Gauge Conversion" means the conversion of the existing narrow gauge track between Bharuch and Samni to Broad Gauge Track.

"GoG" means the Government of Gujarat.

"GoI" means the Government of India.

Sett.

52.70

"Government Railway" means a railway owned by GoI as defined in Section 2 (20) of the Railways Act 1989.

"Governmental Authority" means GoI, GoG, any municipal or local government, or any other department or authority under the control of GoI/GoG having jurisdiction over all or any part of the Project Railway or the performance of all or any of the services or obligations of BDRCL under or pursuant to this Agreement, and having the authority and jurisdiction to frame laws including rules or regulations relating to the Project.

"Insurance Proceeds" means the proceeds of the insurance policies taken by the Concessionaire in terms of Article 10.3.

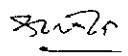
"Lenders" means the financial institutions, banks, holders of bond / debenture issued by BDRCL, any other lender including corporate bodies or any strategic and /or non-strategic debt investor and includes their respective successors and assigns, and all other lenders who provide finance to BDRCL for the Project.

"Maintenance" means all activities associated with standard maintenance procedures on a line similar to the Project Railway as prevalent in the Indian Railways for all aspects concerned with train movement, including but not limited to maintenance practices for track and structures, depots, rolling stock, motive power, signaling and telecommunication, electrical equipment, etc and any emergency or out-of-course repair or restoration activity and necessary periodic and other inspections regarding maintenance and safety procedures.

"Material Adverse Effect" means the effect or consequence of any event or circumstance which will have material and adverse effect on the ability of either Party to perform any of its obligations or exercise any of its rights under this Agreement or Project Related Agreements, (including by preventing or hindering or delaying such performance).

"MoR" shall mean the Ministry of Railways of the Government of India.

"National Emergency" shall include an emergency declared by the



President of India under Article 352 and 360 of the Constitution of India or direction by the GoI affecting the normal movement of traffic in case of declared or undeclared war, military exercise, drought, epidemic, earthquakes, cyclone and any other disaster.

“New Assets” means the new assets required to be created by the Company in the Project Area, as described in Schedule 2 of this Agreement.

“Normal Transfer” means the handing over of the Project Assets by BDRCL to MoR upon the Expiry Date, in accordance with the provisions of this Agreement.

“Operations” means all activities associated with the operations of the Project Railway consistent with the relevant/applicable codes and procedures of MoR with regard to train movement, loading / unloading, storage and security of freight consignments.

“Operations Period” means the period commencing from COD and ending at Expiry/Termination.

“O&M Agreement” means the agreement to be entered into by BDRCL with Western Railway.

“Operator” means Western Railway, entrusted with Operations and Maintenance of the Project Railway by BDRCL under O&M Agreement.

“Project” means Gauge Conversion Bharuch to Dahej via Samni and all activities relating to development, financing, Construction, Operations and Maintenance of the Project Railway.

“Project Railway” means broad gauge rail link connectivity between Bharuch at Km.0.00 (excluding Bharuch Station) and Dahej at Km 62.36 and the related facilities as included in the detailed estimate sanctioned by RVNL vide letter no. 2006/RVNL/P/CC/Bharuch-Dahej/18/Estimate dated 05-03-2007.

“Project Area” means the area of the right of way vested in MoR



available for Project Implementation and includes the railway formation and land leased out to BDRCL.

“Project Assets” refers to Existing Assets, New Assets and other assets relating to and forming part of the Project Railway including but not limited to:

- a. such rights as are defined under this agreement over the Project Area;
- b. financial assets, such as security deposits, insurance proceeds, Applicable Permits, including authorizations relating to or in respect of the Project Railway.

“Project Related Agreements” shall refer to all agreements pertaining to the execution of the Project, and shall include

- a. this Agreement,
- b. the Shareholders’ Agreement between RVNL, GMB, APDPPL, GNFC, DSL and BDRCL,
- c. the lease agreement (the “Lease Agreement”), which will be a schedule to this Agreement, under which the existing assets and the land will be leased to the Company by MoR,
- d. the agreement for Construction entered into by BDRCL for Construction,
- e. the agreement for Operations and Maintenance entered into by BDRCL for Operations and Maintenance.
- f. The Participation Agreement between RVNL, GMB, APDPPL, GNFC, DSL, JRIL, HIL, and BDRCL.

“Railway Administration” means the General Manager, Western Railway, in terms of the Railways Act, 1989.

“Safety Certificate” means the certificate of safety for the Project

Ret.

82 05210

Railway issued by the Chief Engineer, Western Railway in respect of freight operations, and/or certificate of safety issued by Commissioner of Railway Safety, Mumbai for public carriage of passengers.

“State Bank of India Prime Lending Rate” or “SBI PLR” means the prime lending rate per annum of the State Bank of India for loans having a tenor of one year and includes any other reference rate as may be mutually agreed to by the Parties.

“Termination” means cessation of this Agreement at any time prior to the Expiry of the Concession Period

“Termination Date” means the date on which Termination occurs.

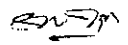
“Transfer Payment” means the amounts payable by MoR to the Company, or vice-versa, under this Agreement upon Termination/Expiry.

“Western Railway” or “WR” means the zonal railway under MoR headquartered at Mumbai.

1.2 Interpretations

In this Agreement, unless the context otherwise requires:

- a. any reference to a statutory provision shall include such provision as is from time to time modified or re-enacted or consolidated so far as such modification or re-enactment or consolidation applies to, or is capable of being applied to any transactions entered into hereunder;
- b. reference to Indian law shall include the relevant laws, acts, ordinances, rules, regulations, or bye laws which have the force of law in any State or Union Territory forming part of the Union of India;
- c. the words importing singular shall include plural and vice versa, and words importing the masculine shall include the feminine gender.
- d. the words denoting natural persons shall include partnerships, firms, companies, corporations, joint ventures, trusts, associations,



- organizations, or other entities, whether incorporate or otherwise;
- e. the headings are for convenience of reference only, and shall not be used in and shall not affect the construction or interpretation of this Agreement;
 - f. terms and words beginning with capital letters and defined in this Agreement shall have the meaning ascribed thereto herein, and the terms and words defined in the Appendices and used therein shall have the meaning ascribed thereto in the Appendices;
 - g. the words "include" and "including" are to be construed without limitation;
 - h. any reference to any point in time shall mean a reference to that point according to Indian Standard Time;
 - i. any reference to day shall mean a reference to a calendar day;
 - j. any reference to month shall mean a reference to a calendar month;
 - k. the Schedules to this Agreement form an integral part of this Agreement and will be in full force and effect as though they were expressly set out in the body of this Agreement;
 - l. any reference at any time to any agreement, deed, instrument, license or document of any description shall be construed as reference to that agreement, deed, instrument, license or other document as amended, varied, supplemented, modified or suspended at the time of such reference;
 - m. references to Recitals, Articles, sub-Articles, Paragraphs, or Schedules in this Agreement shall, except where the context otherwise requires, be deemed to be references to Recitals, Articles, sub-Articles, Paragraphs, and Schedules of or to this Agreement.
 - n. any reference to any period commencing "from" a specified day or date and "till" or "until" a specified day or date shall include both such days or

[Handwritten signature]

dates;

- o. any term not expressly defined in this agreement shall have the meaning specified under the Railways Act, 1989.

1.3 Measurements and Arithmetic Conventions

All measurements and calculations shall be in the metric system and calculations shall be done to two decimal places, with the third digit of 5 or above being rounded up and below 5 being rounded down.

1.4 Priority of Various Components of this Agreement

In case of ambiguities or discrepancies within this Agreement, the following rules of priority shall apply:

- a. between two Articles of this Agreement, the provisions of the specific Article relevant to the issue under consideration shall prevail over those in other Articles;
- b. between the Articles and the Schedules, the Articles shall prevail;
- c. between the dimension scaled from a drawing and its specific written dimension, the latter shall prevail;
- d. between any value written in numerals and that in words, the latter shall prevail.

2. SCOPE OF PROJECT

- 2.1 The scope of the Project shall include the performance and execution of all activities relating to the Development, Financing, Design, Construction, Operations and Maintenance of the Project Railway by BDRCL in accordance with the provisions of this Agreement.

3. COMMISSIONING OF PROJECT

The Concessionaire shall complete Construction and ensure

Rett.

RWA

Commissioning of the Project within the Construction Period.

4. GRANT OF CONCESSION BY MoR TO BDRCL

4.1 Grant of Concession

MoR hereby grants Concession to BDRCL, in accordance with the provisions of this Agreement.

4.2 Rights of BDRCL

The Concession hereby entitles BDRCL, inter-alia, to the following:

- a. to exercise all the rights and authority vested in the Concessionaire under this Agreement;
- b. to have the exclusive right and authority during the Concession Period to implement the Project;
- c. the right to Commercial Exploitation;
- d. the right to develop Additional Facilities in the Project Area;
- e. the right to quote special tariff rates for freight traffic moving within the Project Railway i.e. where origin and destination both are on the Project Railway in terms of the policy instructions issued by MoR from time to time. However, any special tariff rates applicable on other than the Project Railway shall require prior approval of MoR;
- f. the right to receive from MoR its share in accordance with the rules of inter-railway apportionment of earnings, of the tariff collected from the freight traffic originating, terminating and moving on the Project Railway, including haulage charges collected from container operations, after deduction of Operations and Maintenance costs, in accordance with the Project Related Agreements.

4.3 Obligations of BDRCL

Subject to this Agreement and Applicable Laws, -BDRCL hereby undertakes to do the following:

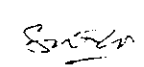
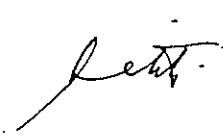
- a. to perform and fulfill, at its costs, expenses and charges, all of its obligations under this Agreement;
- b. not to assign or create any lien or encumbrance on the Concession hereby granted, except as permitted in this Agreement without the prior approval of MoR;
- c. complete Construction of the Project Railway within the Construction Period;
- d. to keep the Project Assets in a proper working condition, including making replacement in accordance with the standards laid down by MoR, of all Project Assets whose lives have expired. Such replacement shall be carried out by BDRCL either by itself or through MoR, and the costs of such replacements shall be borne by BDRCL;
- e. make, or cause to be made, necessary applications to the relevant Governmental Authorities with such particulars and details, as may be necessary for obtaining all Applicable Permits, and obtain such Applicable Permits in conformity with the Applicable Laws and such Applicable Permits shall be kept in full force and effect during the Concession Period;
- f. remove promptly from the Project Area all surplus construction machinery and materials, waste materials (including, without limitation, hazardous materials, waste water), rubbish and other debris (including without limitation accident debris) and shall keep the Project Area in a neat and clean condition and in conformity with the Applicable Laws and Applicable Permits;
- g. procure, as required, the appropriate proprietary rights, licenses, agreements and permissions for materials methods, processes and

[Handwritten signature]

[Handwritten initials]

systems used or incorporated into the Project Railway;

- h. make reasonable efforts to maintain harmony and good industrial relations among the personnel employed in connection with the various activities of the Project;
- i. not to place or create, nor permit any contractor or other person claiming through or under BDRCL, to create or place any encumbrance or security interest over all or any part of Project Area or the Project Assets, or on any rights of BDRCL under this Agreement, save and except as expressly set forth in this Agreement;
- j. indemnify MoR against all actions, suits, claims, demands and proceedings and any loss or damage or cost or expense that may be suffered by MoR on account of anything done or to be done by BDRCL in connection with the performance of its obligations under this Agreement;
- k. to afford access to the Project Area to the authorised representatives of MoR, and other Governmental Authority having jurisdiction over the Project, including those concerned with safety, security or environmental protection to inspect the Project Railway and to investigate any matter within their authority and upon reasonable notice, BDRCL shall provide to such persons reasonable assistance necessary to carry out their respective duties and functions with minimum disruption to the Construction, of the Project Railway consistent with the purpose for which such persons have gained such access to the Project Area;
- l. to furnish to MoR an annual report and such other reports, as required by MoR, containing all relevant information pertaining to its performance under this Agreement;
- m. to promptly inform MoR of any Material Adverse Effect in its financial condition and of any litigation threatened or initiated;
- n. BDRCL upon Expiry shall hand over the Project Assets to MoR



free from all encumbrances whatsoever;

- o. without the prior approval of the MoR not to assign the whole or any part of the Project nor transfer, lease or part possession therewith, except as permitted in this Agreement;
- p. to undertake Operations and Maintenance of the Project Railway through WR, a zonal railway of MoR in accordance with the terms of this Agreement, the Project related agreements and applicable laws and not to engage any other agency for the purpose;
- q. ensure that all contracts, arrangements, leases, licenses etc., entered into by BDRCL during the Concession Period with third parties for the Commercial Exploitation shall be co-terminus with this Agreement and BDRCL shall ensure that this condition shall be a condition included in all such contracts, arrangements, leases, licenses etc., that the BDRCL may enter into as aforesaid;
- r. the BDRCL shall obtain and maintain insurance policies adequate to cover, subject to reasonable deductibles, the usual risks associated with the Operations. The BDRCL shall furnish, upon request, copies of the insurance policies to MoR for its verification.

4.4 Rights of Concessioneing Authority/MoR

The Concessioneing Authority/ MoR shall be entitled to the following:

- a. The Existing Assets handed over or leased to BDRCL shall continue to be the property of the Concessioneing Authority and shall revert to MoR or its nominated agencies or assignees on the Termination Date or Expiry Date.
- b. The right to collect an annual lease rental from BDRCL in respect of all the Existing Assets, which have been handed over or leased to BDRCL for the Project as per the Lease Agreement between the parties as set out in Schedule 1.
- c. The right to collect tariff from non-container traffic originating,

[Handwritten signature]

[Handwritten signature]

terminating and moving on the Project Railway, and haulage charges from container operations. The due share of BDRCL in the freight traffic earnings shall be apportioned and paid to it as per the rules of Inter-Railway Financial Adjustment after defraying the Operations and Maintenance costs in accordance with the Project Related Agreements.

- d. Without in any way adversely affecting the movement of traffic on the Project Railway, or otherwise adversely affecting the functioning of the Project Railway, the right to connect to the Project Railway, at any point along its length, other rail lines which are constructed in accordance with the normal expansion plans of MoR.
- e. The right to modify, suspend or revoke the rights of the Concessionaire under National Emergency during the period of National Emergency, limited for the period of such National Emergency.

4.5 Obligations of Concessioneing Authority

Subject to this Agreement and Applicable Laws, Concessioneing Authority hereby undertakes to do the following:

- a. To perform and fulfill all of its obligations under this Agreement;
- b. Hand over/lease the existing assets in the Project Area to BDRCL for the entire Concession Period;
- c. To hand over to BDRCL all Applicable Permits, if any, without any conditions attached thereto, or if subject to conditions then all such conditions having been satisfied in full;
- d. To apportion and pay to BDRCL, its share of revenue as per the rules of Inter-Railway Financial Adjustment after defraying the operations and maintenance costs in accordance with the Project Related Agreements;



- e. To incur all the running and operating costs of passenger services as provided for in Article 4.4;
- f. To permit peaceful use of the Project Area by BDRCL under and in accordance with the provisions of this Agreement without any let or hindrance from Ministry of Railways or persons under it;
- g. To assist and provide all reasonable support to BDRCL for obtaining the Applicable Permits, if any; and
- h. To extend, under equal circumstances, to BDRCL all additional concessions/ benefits announced or given to other parties from time to time.

4.6 Period of the Concession

★ 4.6.1 The concession period would be determined with reference to attainment of the NPV payback benchmark at the rate of return of 14%. The concession period shall be 30 years of operation or till the time the NPV payback equal to the equity investment is reached, whichever is earlier. In case the NPV payback is reached earlier than 30 years, the Concession Agreement would stand terminated and the project line would be re-possessed by Railways. The NPV at the discount rate of 14% shall be based on the dividend payouts to shareholders and net worth including the termination payment. Schedule III to this Agreement indicates the method of calculation of NPV payback and determination of concession period. The company shall prepare this schedule after COD, on close of the yearly accounts of the company and send it to Ministry of Railways by 30th September of the year without fail. ①

4.6.2 Upon the expiry of 30 years of operation as provided in Article 4.6.1 above, the Concession Period shall be extended by an equal period of time which corresponds to the period for which material disruption of Operations and Maintenance occurred during the Concession Period. However, such extension will be limited to the provisions of clause 4.6.1 above, i.e., if NPV payback equal to the equity investment is reached earlier than the period so extended, the Concession Agreement would

stand terminated.

4.6.3 Upon Expiry/Termination, the Project Assets shall be handed over by the Concessionaire to MoR. Provided however that, if MoR opts to grant a fresh Concession in respect of the Project Railway, the Concessionaire shall, all other things being comparable and performance of the concessionaire being satisfactory, have the first right to be awarded the new Concession.

5. TRANSFER OF ASSETS TO MoR

5.1 Upon Expiry, the Project Assets shall be handed over by BDRCL to MoR in accordance with the provisions of Article 8.

6. REPRESENTATIONS AND WARRANTIES

6.1 Representations and Warranties of BDRCL;

BDRCL represents and warrants to MoR that:

- a. It is a company, duly organized, validly existing and in good standing under the laws of India;
- b. It has full power and authority to execute, deliver and perform its obligations under this Agreement and to carry out the transactions contemplated hereby;
- c. It has taken all necessary corporate and other action under Applicable Laws and its constitutional documents to authorize the execution, delivery and performance of this Agreement;
- d. It has the financial standing and capacity to undertake the Project Railway;
- e. This Agreement constitutes a legal, valid and binding obligation enforceable against it in accordance with the terms thereof;
- f. The execution, delivery and performance of this Agreement will



51527

not conflict with, nor result in the breach of, nor constitute a default under any of the terms of the Memorandum and Articles of Association of BDRCL or any Applicable Laws or any covenant, agreement, understanding, decree or order to which, it is a Party or by which it or any of its properties or assets is bound or affected;

- g. There are no actions, suits, proceedings, or investigations pending or, to its knowledge, threatened against it before any Court or before any other judicial, quasi-judicial or other authority, the outcome of which may result in the breach of or constitute a default of BDRCL under this Agreement, or which individually or in the aggregate may result in any Material Adverse Effect on its business, properties or assets or its condition, financial or otherwise, or in any impairment of its ability to perform its obligations and duties under this Agreement;
- h. All the Applicable Permits have been obtained and are in full force and effect on the Appointed Date, or shall be obtained in due course from time to time and all the Applicable Permits will be maintained in full force and effect until the Termination Date.

6.2 Representations and Warranties of Concessioneing Authority:

Concessioneing Authority represents and warrants to BDRCL that:

- a. MoR is an integral part of the Government of India and is the ministry in charge of all activities including Construction, Operations and Maintenance of the railway lines in India;
- b. MoR has full power and authority to execute, deliver and perform its obligations under this Agreement and to carry out the transactions contemplated hereby including the grant of Concession;
- c. MoR has taken all necessary actions to authorize the execution, delivery and performance of this Agreement;
- d. This Agreement constitutes its legal, valid and binding obligation

Rett.

SRM

enforceable against it is accordance with the terms hereof;

- e. This Agreement constitutes a commercial act and not a sovereign act.
- f. There are no actions, suits, proceedings, or investigations pending or, to its knowledge, threatened against it before any Court or before any other judicial, quasi-judicial or other authority, the outcome of which may result in the breach of or constitute a default of MoR under this Agreement

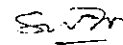
7. BREACH OF CONTRACT AND OTHER FAILURES TO PERFORM

In the event of MoR or BDRCL being in material default of this Agreement and such default is not cured within the cure period as provided herein, the following provisions shall apply.

7.1 BDRCL Event of Default

BDRCL shall be deemed to have committed an Event of Default if any of the following occurs, unless such event has arisen on account of Force Majeure Event or Concessions Authority Event of Default;

- a. Unlawful repudiation of this Agreement by BDRCL;
- b. Appointment of a liquidator provisional or otherwise, for winding up of BDRCL, unless such appointment has been set-aside within 90 days;
- c. Failure to comply with the lawful directives given by Central Government having the statutory rights to issue such directives with respect to the Project Railway;
- d. Breakdown of any of the Project Related Agreements on account of BDRCL default, rendering this Agreement inoperable;
- e. Abandonment of the construction of the Project Railway;



- f. A breach of any of its obligation under a material provision of this agreement by BDRCL;
- g. Failure on the part of Concessionaire to perform its obligations under any of the Financing Documents which has led to recall of the financial assistance by the Lenders;
- h. Non- payment by BDRCL a material amount defined as amount equal to lease charges payable for one year.

7.2 Concessioneing Authority Event of Default

Concessioneing Authority shall be deemed to have committed an Event of Default if any of the following occurs, unless such event has arisen on account of Force Majeure Event or BDRCL Event of Default;

- a. Unlawful repudiation of this Agreement by MoR including expropriation of Project Assets by any Government Authority.
- b. Breakdown of any of the Project Related Agreements on account of MoR's default, rendering this agreement inoperable;
- c. Failure to pay BDRCL the payment of its share of revenue, for the haulage of freight on the Project Railway within a period of 20 days;
- d. A material breach of any of its obligations under the provisions of this Agreement by MoR.

7.3 Consequences of Default

In the Event of Default by either Party (hereinafter referred to as an "Event of Default"), the following provisions shall apply.

7.3.1 Notice of Default

[Handwritten signature]

[Handwritten initials]

Upon an Event of Default having occurred, the non-defaulting Party shall issue a notice ("Notice of Default") to the Party that has committed the default, specifying the following:

- a. The nature of the Event of Default;
- b. If applicable, the specific provisions of this Agreement which have been materially breached, or in respect of which defaults have occurred;
- c. Specifying a date by which the defaulting Party can effect a cure of the Event of Default, provided that such cure period shall not be more than sixty days from the date of Notice of Default.

7.3.2 If the defaulting Party is able, within the cure period specified in the Notice of Default, to cure the Event of Default to the satisfaction of the non-defaulting Party, the Notice of Default shall stand revoked without prejudice to the rights of the non-defaulting Party to issue similar notice for any subsequent breach or any other breach by the defaulting Party. The defaulting Party shall continue to perform its obligations under this Agreement as if Notice of Default was not issued.

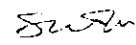
7.3.3 Notice of Intent to Terminate

If the defaulting Party is not able to cure the Event of Default in accordance with Article 7.3.2 above, the non-defaulting Party may initiate proceedings to terminate this Agreement by delivering a notice to the defaulting Party ("Notice of Intent to Terminate").

7.3.4 Notice of Intent to Terminate shall specify in reasonable detail, the acts and omissions of the defaulting Party, and the specific provisions of this Agreement, which have been breached.

7.3.5 Remedy Period

- a. Following the service of the Notice of Intent to Terminate, the Defaulting Party shall have a period of 60 days ("Remedy Period")



to cure the Event of Default pursuant to which the Notice of Intent to Terminate was issued;

- b. During the Remedy Period, the Defaulting Party may continue to undertake efforts to cure the default, and the Non Defaulting Party shall not, by any act or omission, impede or otherwise interfere with the Defaulting Party's endeavours to remedy the Event of Default;
- c. During the Remedy Period, both the parties shall, save as otherwise provided herein, continue to perform their respective obligations under this Agreement.

7.3.6 Withdrawal of Notice of Intent to Terminate

If, prior to the expiry of the Remedy period, the defaulting party rectifies or remedies the underlying default to the satisfaction of the non-defaulting party, the non-defaulting party shall withdraw the Notice of Intent to Terminate.

7.3.7 Termination Notice

Upon the expiry of the Remedy Period, unless

- a. the parties have otherwise agreed in writing ;or,
- b. the Event of Default giving rise to the Notice of Intent to Terminate has ceased to exist; or
- c. the Notice of Intent to Terminate has been withdrawn in accordance with the provisions of Article 7.3.6.,

the non defaulting Party may terminate this Agreement by giving a written notice of 30 days ("Termination Notice") to the defaulting Party.

7.4 Lenders' Step in Rights

Letit

8030

Notwithstanding anything to the contrary contained in this Agreement, the Parties hereby agree that (i) upon the Lenders recalling and demanding the debt outstanding under the Financing Documents (following an event of default under the Financing Documents) or (ii) upon a Termination Notice being issued by MoR, the Lenders shall, without prejudice to any other remedy available to them, have the option to propose to MoR the substitution of the Concessionaire by another suitable Concessionaire ("Proposed Concessionaire"). Any such proposal shall contain in sufficient detail all the relevant information about the Proposed Concessionaire and the terms and conditions of the substitution.

8. TRANSFER PAYMENT AND OTHER FORMALITIES

8.1 Transfer Payment on Normal Transfer

Upon Normal Transfer, BDRCL shall be entitled to receive and MoR shall pay to BDRCL an amount equal to Book Value. The original Existing Assets leased to BDRCL by MoR shall revert back to MoR. The fresh land acquired by MoR and leased to BDRCL shall also revert back to MoR on payment of an amount equal to the cost of acquisition.

8.2 Transfer Payment on Termination on Account of Concessioneing Authority's Event of Default

Upon Termination on account of Concessioneing Authority's Event of Default, BDRCL shall be entitled to receive and MoR shall pay the following as Transfer Payment:

- a. 130% of DRV if the default occurs within 15 years of COD.
- b. 120% of DRV if the default occurs after 15 years but within 25 years of COD.
- c. 110% of DRV if the default occurs after 25 years of COD.
- d.

8.3 Transfer Payment on Termination on Account of Concessionaire's Event of Default



Upon Termination on account of Concessionaire's Event of Default, BDRCL shall be entitled to receive and MoR shall pay 50% of Book Value as Transfer Payment.

- 8.4 Upon Expiry/Termination, MoR shall take over the Project Assets unencumbered.
- 8.5 Transfer Payments shall be made within a period of 120 days of submission from Expiry/Termination. Failure to make the payment in time shall attract interest at the rate of the SBI PLR prevailing at the time for each day of delay.

9.0 TRANSFER FEES AND CHARGES

Transfer fees and charges, if applicable, and other incidental expenses incurred at the time of Termination or Normal Transfer shall be borne by the MoR and BDRCL in the following proportion:

Head of Charge	Onus
1. Transfer fees or stamp duties, recording costs, notarial fees	Party in default or on expiry of this agreement by MoR
2. Fees to third party experts for any required inspections or certifications, if applicable	Shared by both
3. Fees to appraising team, if applicable	Shared by both
4. Internal costs and expenses of each party (management time, cost of surveys, inventories, inspections, etc)	To be borne by each Party respectively.

- 9.1 Upon Expiry/Termination MoR shall take over the Project Assets of BDRCL free of all encumbrances. In the event of BDRCL's failure to ensure that the Project Assets are free of encumbrance, MoR shall take over the Project Assets, but not the liabilities which shall continue to be the responsibility of BDRCL.

Handwritten initials/signature

Handwritten signature

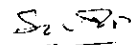
- 9.2 In the event of Normal Transfer or Termination of this Agreement, MoR shall not be liable for any liability and /or damages to BDRCL or to any other third party except in accordance with the provisions of this Agreement.

10. FORCE MAJEURE

- 10.1 "Force Majeure" shall mean any event or circumstance or combination of events or circumstances that has a Material Adverse Effect on either Party (the "Affected Party") but only if and to the extent that such events and circumstances in all probability are not within the Affected Party's reasonable control.

The Following circumstances and events shall constitute an event or circumstance of Force Majeure to the extent that they or their consequences satisfy the above requirements:

- a. the effect of natural elements or other acts of God, including but not limited to any storm, flood, drought, lightning, earthquake, cyclone or other natural disaster;
- b. fire, accident, breakage of facilities or equipment, structural collapse or explosion which the Party claiming to have been subject to Force Majeure demonstrates to have been attributable to a cause other than
 - i. inherent defects of any equipment, or
 - ii. circumstances within the reasonable control of the Affected Party or its contractors;
- c. epidemic or quarantine
- d. acts of war (whether declared or undeclared), sabotage, terrorism or acts of public enemy (including the acts of independent units or individuals engaged in activities of foreign program of irregular warfare), acts of belligerence of foreign enemies (whether declared or undeclared), blockades, embargoes, civil disturbances,



revolution, rebellion or insurrection, exercise of military or usurped power or any attempt at usurpation of power;

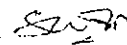
- e. radioactive contamination or ionization radiation
- f. events of strikes, work to rule actions, go-slows or similar labour related problems caused in whole or in part by agitation or unrest except where such events which are site specific or attributable to the Party claiming relief.
- g. any change in law.

10.2 Duty to Report

10.2.1 A Party claiming to be affected by an event of Force Majeure shall notify the other Party in writing of the occurrence of the event of Force Majeure as soon as reasonably practicable, and in any event, within 15 (Fifteen) days after the Affected Party knew, or ought reasonably to have known, of its occurrence and the probable material effect that the event of Force Majeure is likely to have on the performance of its obligations under this Agreement.

10.2.2 Any notice pursuant to this Article 10.2.1 shall include full particulars of:

- a. the nature and extent of the event of Force Majeure which is the subject of any claim for relief under this Article 11 with evidence in support thereof;
- b. the estimated duration and the effect or probable effect which such event of Force Majeure is having or will have on the Affected Party's performance of its obligations under this Agreement; and
- c. the measures which the Affected Party is taking or proposes to take, to alleviate the impact of such event Force Majeure ; and
- d. any other information the Affected Party wishes to present in support of its claim.



10.2.3 For so long as the Affected Party continues to claim to be affected by such event of Force Majeure, it shall continue to provide to the other Party, written reports on every alternate day, containing information as required by this Article 11 and such other information as the other Party may reasonably request the Affected Party to provide.

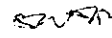
10.2.4 Any party claiming to have been affected by an event of Force Majeure shall not be entitled to any relief unless it has complied with all the provisions of Articles 10.2.1, 10.2.2 and 10.2.3 above.

10.3 Excuse from Performance of Obligations

An Affected Party who is rendered wholly or partially unable to perform its obligations under this Agreement shall be excused from performance of such of its obligations as are directly and materially adversely affected by the event of Force Majeure, provided however that:

- a. an obligation to make any payment or meet any financial obligation shall not be excused on account of an event of Force Majeure, and
- b. the maximum period for which relief can be claimed by an Affected Party in respect of an event of Force Majeure shall not exceed one hundred and twenty (120) days, and
- c. the suspension of performance of its obligations by the Affected Party shall be of no greater scope and of no longer duration than is reasonably necessitated by the event of Force Majeure, and
- d. the Affected Party shall continue to make all reasonable efforts to mitigate or limit the damage to the other Party arising out of or as a result of the existence or occurrence of such event of Force Majeure and to cure the same with due diligence; and
- e. when the Affected Party is able to resume performance of its obligations under this Agreement, it shall give to the other Party written notice to that effect and shall promptly resume performance





of its obligations hereunder.

- f. any Insurance Proceeds shall be entirely applied to repair, replace or restore the assets damaged on account of the Force Majeure event unless otherwise required by the Lenders.

10.4 No Liability for Other Losses, Damages, etc.

Save and except as expressly provided in this Article 10, neither Party shall be liable in any manner whatsoever to the other Party in respect of any loss, damage, cost, expense, claims, demands and proceedings relating to or arising out of the occurrence or existence of any event of Force Majeure or the exercise by it of any right pursuant to this Article 10.

11. SETTLEMENT OF DISPUTES THROUGH GOOD FAITH NEGOTIATIONS AND CONCILIATION

11.1 Good Faith Negotiation

The Parties shall endeavour, in the first instance, to resolve any dispute, disagreement or difference arising out of or in connection with this Agreement, including any question regarding its performance, existence, validity, termination and the rights and liabilities of the Parties to this Agreement (a "Dispute") through good faith negotiations.

- 11.2 For the purpose of conducting good faith negotiations, each Party shall, within one month of the Appointed Date, designate in writing to the other Party a representative who shall be authorised to negotiate on its behalf with a view to resolving any Dispute (the "Representative"). Each such Representative shall remain so authorised until his replacement has been designated in writing to the other Party by the Party he represents.

- 11.3 Unless otherwise provided for in this Agreement, the following provisions shall apply to the resolution of any Dispute:

[Handwritten signature]

[Handwritten signature]

- a. The Dispute shall not be referred to Arbitration under Article 12, unless and until the provisions of this Article have been complied with.
- b. The Representative of the Party which considers that a Dispute has arisen shall give to the Representative of the other Party, a written notice setting out the material particulars of the Dispute (a "Dispute Notice").
- c. Within thirty days, or such longer period as may be mutually agreed ("Negotiation Period"), of the Dispute Notice having been delivered to the other Party, the Representatives of both Parties shall meet in person at the registered office of the Company or at any other designated place to attempt in good faith, and using their best endeavours at all times, to resolve the Dispute. Once the Dispute is resolved, the terms of the settlement shall be reduced in writing and signed by the Representatives of the Parties (the "Settlement").
- d. If a Settlement is not reached within thirty (30) days after the Negotiation Period, such Dispute shall be referred for Conciliation to one conciliator in accordance with the provisions of Arbitration and Conciliation Act, 1996.

12. ARBITRATION

- 12.1 If good faith negotiation and conciliation under Article 11 has not been able to resolve a Dispute, such Dispute shall be referred to and be finally resolved by arbitration in accordance with the Arbitration and Conciliation Act, 1996 and the rules made there under.
- 12.2 The place of arbitration shall be Delhi, India.
- 12.3 Each Party to the Dispute shall appoint one arbitrator and the two arbitrators so appointed shall mutually agree to and appoint the third arbitrator. The arbitral agency so constituted, shall be the "Arbitral Tribunal". The provisions of the Arbitration and Conciliation Act, 1996

as may be amended from time to time and the rules, if any made there under shall apply to such arbitration proceedings.

12.4 The language of the arbitration shall be English.

12.5 Any decision or award of the Arbitral Tribunal appointed pursuant to this Article 12 shall, subject to correction/recourse provided for under the Arbitration and Conciliation Act, 1996, be final and binding upon the Parties. The Arbitral Tribunal shall give a speaking award.

13. NOTICES

13.1 Notice Requirements

All notices under this Agreement shall be in writing and are effective upon delivery to the applicable Party (whether by mail, fax, personal delivery or otherwise) at the address indicated below (or such other address as any Party may notify in writing to all the other Parties in accordance with the provisions of this Article 13):

a. If to BDRCL, at:
August Kranti Bhawan (First Floor),
Bhikaji Cama Place, New Delhi - 110066.
Attn: Managing Director, Bharuch Dahej Railway Company Limited

b. If to Concessioneing Authority, at:
Ministry of Railways
Room No. 102, Rail Bhawan
New Delhi - 110 001
Tele Fax No: 011-23782539
Attn: Executive Director Traffic (PPP)
Railway Board

13.2 Delivery

Any notice, document or communication:

lett.

82790

- a. given by hand against acknowledgement is deemed to be received at commencement of the business day next following delivery to the address of the receiving Party set out in Article 13.1;
- b. sent by fax is deemed to be received at the commencement of the business day next following receipt by the sending Party of an electronic confirmation of transmission of the notice to that addressee, which transmission is to be confirmed by a courier transmission date marked the same day as the fax transmission it is confirming.

MISCELLANEOUS PROVISIONS

14.1 Partial Validity

If a provision is void, unenforceable or illegal, but shall be valid if some part of the provision were deleted, the provision in question shall apply with such minimum modification as may be necessary to make it valid.

14.2 Further Assurances

Each Party shall do all things required to give effect to its rights and obligations under this Agreement including executing all deeds and documents, convening all meetings, giving all waivers and consents, passing resolutions and otherwise exercising all powers and rights available to it.

14.3 Waiver

14.3.1 Failure by either Party to invoke the provisions of this Agreement in the event of any default by other Party in the observance and performance of its obligations under this Agreement

- a. shall not operate or be construed as a waiver of any such default, or any other or subsequent default, and
- b. shall not affect the validity or enforceability of this Agreement in

Rett.

2017

any manner.

- 14.3.2 Failure by any Party to insist on upon the performance of the terms, conditions and provisions of this Agreement or any obligation hereunder, and time or other indulgence granted by a Party to the other Party shall not be treated or deemed as waiver of such breach or acceptance of any variation or the relinquishment of any such right hereunder.

14.4 Counterparts

This Agreement may be executed in two counterparts, both of which taken together shall constitute one and the same Agreement, and any Party may enter into this Agreement by executing a counterpart.

14.5 Whole Agreement

This Agreement contains the whole agreement between the Parties relating to the Project, and supersede all previous agreements and understandings between the Parties in so far as these relate to the subject matters hereof.

14.6 No Reliance

Each Party acknowledges that, in agreeing to enter into this Agreement, it has not relied on any representation, warranty, collateral contract or other assurance (except those set out in this Agreement) and waives all rights and remedies which, but for this Article, may otherwise be available to it in respect of any such representation, warranty, collateral contract or other assurance (except those set out in this Agreement), provided that nothing in this Article limits or excludes any liability for fraud and/or misrepresentation or concealment of facts.

14.7 Compliance with Applicable Laws

Signature

Each Party shall comply with all Applicable Laws, rules and regulations applicable to the Project in the performance of its obligations under this Agreement.

14.8 Governing Law and Jurisdiction

This Agreement shall be construed and interpreted in accordance with and governed by the Laws of India.

14.9 Language

The language of this Agreement shall be English. All documents, Notices, waivers and all other communications, written or otherwise between the Parties in connection with this Agreement shall be in English.

14.10 Amendments

No amendment or modification of the terms of this Agreement shall be binding on any Party unless reduced in writing and signed by both Parties.

14.11 Deputation of Employees

The Parties agree that BDRCL is entitled to procure, at its own cost and on deputation basis, the services of any employee of MoR or any of its field formations or any Public Sector Undertaking under the control of MoR in the best interest of the BDRCL.

14.12 Renewal

This Agreement may be extended beyond the Concession Period of 30 years in accordance with the provisions of Articles 4.6.2 and 4.6.3.

lett.

su. 2/11

IN WITNESS WHEREOF THE PARTIES HAVE EXECUTED AND DELIVERED THIS AGREEMENT ON THE DATE FIRST ABOVE WRITTEN.

<p>SIGNED, AND DELIVERED For and on behalf of President of India by</p> <p><u><i>[Signature]</i></u> (Signature)</p> <p>Sushant Kumar Mishra Executive Director Traffic (PPP) Ministry of Railways Government of India.</p>	<p>SIGNED, SEALED AND DELIVERED For and on behalf of BDRCL by :</p> <p><u><i>[Signature]</i></u> (Signature)</p> <p>R. N. Kalita Coordinating Director/CEO Bharuch Dahej Railway Company Limited</p>
<p>In the presence of:</p> <p>1. <u><i>[Signature]</i></u> 25.6.08 (S. K. Shukla) Asstt. Manager RVNL</p> <p>2. <u><i>[Signature]</i></u> (V. K. Dixit) Asstt. Manager / P&D</p>	<p>In the presence of:</p> <p>1. <u><i>[Signature]</i></u> 25.6.08 (S. K. Shukla) Asstt. Manager RVNL</p> <p>2. <u><i>[Signature]</i></u> 25.6.08 (V. K. Dixit) Am / P&D</p>

**Schedule I
LEASE AGREEMENT**

This Lease Deed is made at New Delhi on this the 25th day of June, 2008

BETWEEN

THE PRESIDENT OF INDIA, acting through the Executive Director Traffic (PPP) of the Ministry of Railways, Government of India, Rail Bhawan, New Delhi (hereinafter referred to as "the Lessor" as the case may be, which expression shall unless repugnant to the context and meaning thereof, include its successors in office, representatives and permitted assigns), of the FIRST PART

AND

BHARUCH DAHEJ RAILWAY COMPANY LIMITED, a company incorporated under provisions of the Companies Act, 1956, having its registered office at August Kranti Bhawan, Bhikaji Cama Place, New Delhi – 110066, India (hereinafter referred to as "BDRCL" or "the Company" which expression shall, unless repugnant to or inconsistent with the context, mean and include the successors and permitted assigns).

Each being referred to as a "Party" and jointly as the "Parties"

WHEREAS

- A. Ministry of Railways (MoR), Government of India have launched National Rail Vikas Yojana for speedy development of Rail infrastructure which includes de-bottlenecking of Golden Quadrilateral, providing port connectivity and development of corridors to hinterland;
- B. National Rail Vikas Yojana being largely a non-budgetary initiative envisages public-private partnership model of financing and implementation of certain railway infrastructure;



- C. Ministry of Railways has set up Rail Vikas Nigam Limited (RVNL) for implementing National Rail Vikas Yojana. A Memorandum of Understanding has been signed on 16th October 2003 between Ministry of Railways and RVNL for creating project specific Special Purpose Vehicle.
- D. Bharuch Dahej Gauge Conversion Project is a sanctioned on going project of Railways and is an identified project to be undertaken under this Yojana;
- E. Rail Vikas Nigam Limited ("RVNL"), Gujarat Industrial Development Corporation (GIDC) and Gujarat Maritime Board (GMB) have signed an MOU on 13.01.2005 for implementing Bharuch - Samni - Dahej Railway Project through a Special Purpose Vehicle.
- F. RVNL, Gujarat Maritime Board, Adani Petronet (Dahej) Port Private Limited, Gujarat Narmada Valley Fertilizers Company Limited and Dahej SEZ Limited have signed the Shareholders Agreement for Bharuch Dahej Railway Company Limited ("BDRCL") on 12.01.2007 and Jindal Rail Infrastructure Ltd. & Hindalco Industries Ltd have signed the Participation agreement on 16-06-2008, in order to take over the responsibility for implementation of the Project which shall include raising the necessary finances for the Project, completion of Civil Works, installation of equipment and facilities for the Project, testing and commissioning and subsequent operations and maintenance of the railway line for a period as specified in the Concession Agreement.
- G. In pursuance of the aforesaid understandings, the parties have agreed to enter into this Concession Agreement for setting up a suitable framework, under which BDRCL can undertake all the activities connected with the development, financing, design, construction, operation and maintenance of the Project;
- H. In pursuance of the aforesaid understandings, the parties have entered into a Concession Agreement for setting up a suitable

[Handwritten signature]

[Handwritten signature]

framework, under which BDRCL can undertake all the activities connected with the implementation of the Project.

- I. To enable the Lessee to construct, operate and manage the Project Railway, the Lessor has agreed to lease all the Existing Assets (as defined in the Concession Agreement) and any land to be newly acquired for the Project to the Lessee for the duration of the Concession.
- J. The Lessee agrees to acquire the Existing Assets on lease from the Lessor under this Agreement (hereinafter, the "Deed")

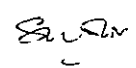
NOW THIS DEED WITNESSETH AND IT IS HEREBY AGREED BY AND BETWEEN THE PARTIES AS FOLLOWS:

1. DEFINITIONS

All terms and words used in this Deed, which have not been defined herein, shall have the meanings ascribed to them in the Concession Agreement.

2. LEASED ASSETS

- 2.1 In consideration of the premises aforesaid, and of the rent reserved and of the covenants and agreements on the part of the Lessee to be observed and performed, the Lessor does hereby lease unto the Lessee all the Existing Assets and the land to be newly acquired (hereinafter, referred to as the "Leased Assets") together with all rights, easements and appurtenances thereto, to have and to hold, for the duration of the Concession Period.
- 2.2 The Lessor is the rightful owner of all the Leased Assets and the land to be newly acquired, including the land on which the Project Railway shall be constructed.
- 2.3 Lessor hereby warrants that the Leased Assets are free of all encumbrances.



3. TERM OF LEASE

The term of the Lease shall be co-terminus with the Concession Period, unless extended for a further period by the mutual agreement of the Parties.

4. LEASE RENT

- 4.1 The Lessee shall pay to the Lessor, an annual lease rental in respect of the Leased Assets. This lease rental shall be payable in advance in one single installment payable in first week of January.

The annual lease rental shall be:

- (a) For original land of Western Railway leased to the Company – as per the extant policy of the Ministry of Railways as revised from time to time.
- (b) For the new land acquired by Western Railway for the project @ Re. 1/- per annum.

5. USE OF LEASED ASSETS

The Lessee shall utilize the Leased Assets only for the purpose of the Project Railway, and for no other purpose whatsoever. Provided however that the Lessee shall be, subject to the provisions of Article 6, at liberty to put the Leased Assets to Commercial Exploitation.

6. The Lessee shall not assign, transfer, mortgage, charge, sublet or create lien on any leased assets or part thereof without the prior written permission of the Lessor.

7. DEVELOPMENT OF LEASED ASSETS

Subject to the terms of this Deed and the Concession Agreement, the Lessee shall be at liberty to deal with the Leased Assets and any other structures standing thereon or to be constructed hereafter, and shall carry

Ret.

Ret.

out any modifications thereto, as it deems necessary for the Project Railway, and shall keep the works and structures on the Leased Assets or any portion thereof in good working condition.

8. ENJOYMENT OF LEASED ASSETS

The Lessor does hereby covenant with the Lessee, that upon the Lessee paying the lease rent hereby reserved, and upon the Lessee performing the covenants herein and in the Concession Agreement contained, on the part of the Lessee to be observed and performed, the Lessee shall peaceably and quietly enjoy the Leased Assets for the said term hereby granted and its extension as herein provided, without any let, interruption or disturbance from or by the Lessor or any other person or persons lawfully claiming by, or under the Lessor.

9. PAYMENT OF TAXES, DUTIES ETC.

9.1 The Lessee shall pay all taxes and other charges, dues, assessments and other outgoings levied by any Governmental Authority and payable in respect of the Leased Assets or that to be constructed thereon or in respect of the materials stored thereon.

9.2 The Lessee shall fully indemnify the Lessor in respect of all liabilities in this regard, except where such liabilities arise on account of any work undertaken by MoR or any of its agencies.

10. COMPLIANCE OF LAWS

The Lessee shall not do or permit to be done on the Leased Assets, any act which may be contrary to any Applicable Law.

11. INSURANCE

The Lessee shall be at the liberty to insure, in accordance with the terms of this Deed and the Concession Agreement, the Leased Assets and the facilities and infrastructure to be provided thereon, for such sum and against such risks as the Lessee considers reasonable and necessary, and with the name of the Lessee as the loss payee.



SUKW

12. Termination And Renewal

12.1 This Lease may be terminated in case of termination/expiry of the Concession Agreement. The period of the Lease shall be co-terminus with the Concession Period.

12.2 If the Concession Agreement is extended/renewed beyond the Concession Period, the Lease Agreement shall also be extended/renewed at terms to be mutually decided by the parties.

13. DISPUTES

If any dispute or difference of any kind whatsoever (a "Dispute") shall arise between the Parties, the dispute resolution mechanism in the Concession Agreement shall apply.

14. PAYMENT OF STAMP DUTY

All costs, charges and expenses incidental to the execution of this Deed, including the stamp duty and registration charges thereof, shall be borne and paid by the Lessee.

15. NOTICE

Any notice or other communication to be given hereunder shall be in writing and shall be sufficiently given if delivered by registered mail or hand-delivered against written receipt, or if transmitted and clearly received by facsimile transmission addressed as follows:

BDRCL



a) In case of Lessor

Executive Director Traffic (PPP)
Railway Board
Ministry of Railways
102, Rail Bhawan
New Delhi – 110 001
Tele Fax: 011-23782539

b) In case of Lessee

Managing Director
Bharuch Dahej Railway Company Limited
August Kranti Bhawan (First Floor),
Bhikaji Cama Place, New Delhi –110066.

16. GOVERNING LAWS

This Deed shall be construed and interpreted in accordance with and governed by the Laws of India.

17. LANGUAGE

The language of this Deed shall be English. All documents, Notices, waivers and all other communications, written or otherwise between the Parties in connection with this Deed shall be in English.

18. AMENDMENTS

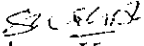
No amendment or modification of the terms of this Deed shall be binding on any Party unless reduced in writing and signed by both Parties.

Su. 7/10

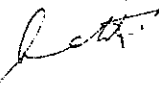
[Handwritten signature]

IN WITNESS HEREOF this Agreement has been executed by the duly authorised representatives of the Parties hereto on the day and year first mentioned above.

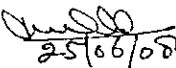
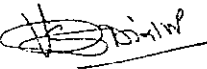
For and Behalf of
the Lessor
President of India by


Sushant Kumar Mishra
Executive Director Traffic (PPP)
Ministry of Railways

For and Behalf of
the Lessee


R. N. Kalita
Coordinating Director/CEO
Bharuch Dahej Railway Company Limited

In the presence of :

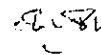
1.  (S.K. Sunkar) Asstt. Manager RVNL
25/06/08
2.  (V.K. Dixit) Asstt. Manager RVNL

Schedule II

DETAILS OF NEW ASSETS

List of new assets to be created

Sl. No.	Description	Details
1.	Land to be acquired	6.8 Hectares at Jn. arrangement)
2.	Formation – Type, Width etc.,	Embankment and cutting as per P. Way manual for BG Standard.
3.	Drains and earth retaining works etc., location-wise	All major cuttings will be provided with drains as per P. Way manual. Retaining Wall: 6500m
4.	Tunnels	NIL
5.	No. of bridges type-wise	Major: 3 bridges Minor: 91 bridges
6.	Track	
	(i) Ballast – Type and cushion on main and loop lines	300mm cushion on main line and 250 mm on loop lines.
	(ii) Rails – Weight, LWR/SWR, First hand/Second hand etc.	60 kg. 90 UTS new rails welded into LWR for main line from Baruch to Samni, 52 kg. New rails welded into LWR for main line from Samni – Dahej & 52Kg second hand rails for Loops.
	(iii) Fittings – Type of ERC, Rubber pads, metal/GFN liners etc.	Elastic fastenings (ERC 3701, GRSP 3711, Metal Liners 3740, 3741 and 3742 and GFN liners 3706, 3707 and 3708)
	(iv) Sleepers – Type, density etc. on main & loop lines	1660 Nos. PRC sleepers per km. on main line. 1540 Nos. PRC sleepers per km. on loop lines.
	(v) Points & Crossings – Types etc.	1 in 12 32 Nos. (24 (60Kg) +8 (52Kg)), 1 in 8 ½ 20 Nos., Trap Switches 17 Nos. (15 (60Kg) +2 (52 Kg)) on PRC fan shaped sleeper layouts.
6	No. of stations class-wise.	'A' Class: 1 No. (Bharuch Modification) 'B' Class: 4 Nos. (New)
7	Station buildings, platforms, any other operational assets, such as cover over shed, water huts, running rooms,	(i) Station buildings with relay, battery and Generator Rooms at all the Five stations. (ii) One TXR room at Dahej.

	crow booking offices, stalls on the platforms etc.					
Sl. No.	Description	Details				
8.	No. of Quarters Type wise	Name of Strn.	Type I	Type II	Type III	Type IV
		Samni	24	20	20	8
		Level Crossing	44	0	0	0
		Total	68	20	20	8
9.	No. of level crossings, class-wise	'B' Class manned:		10 Nos.		
		'C' Class manned:		12 Nos.		
		'C' Class unmanned:		43 Nos.		
10.	Road Over Bridges / Road under Bridges	Major ROB		NIL		
		Major RUB		NIL		
		Minor RUB		NIL		
11.	Offices	For Asst. Scale Officers		NIL		
		For Supervisors/GRP		3 Nos.		
12.	Rest Houses / Health Unit.	Officers' Rest House		NIL		
		Supervisors' Rest House		1 No.		
		Health Unit		NIL		
13	S&T					
	a. Interlocking	SSI				
	b. Operation of Points	Motor Operation				
	c. Signals LED lit	Colour Light Signals				
	d. Block Working	Axle Counters/Block				
	e. Communication OFC and 6 Quad Cable	OFC for control and administrative purposes and telephone communication and 6 quad cable for emergency, communication and block working.				
	f. Electric Traction	Overhead equipment, traction sub-stations, SCADA, switching stations and feeding post.				
14	Electrical					
	i) Traction Sub station (TSS)	1 No.				
	ii) Sectioning & Paralleling post (SP)	2 Nos.				
	iii) Sectioning & Paralleling post (SP)	2 Nos.				
	iv) OHE & PSI Depot	1 Nos(PSI).				

Schedule III
Calculation of NPV to determine the Concession Period

Equity invested (EQ) = _____

Year	Dividend	NPV of dividend	Cumulative NPV of dividend payouts	Net worth of SPV (reserve, Cash balance + Termination Payment + Other asset)	NPV of Pay back (4+5)	Whether NPV of payback (Col 6) equals the equity invested(EQ) (Yes/No)
1	2	3	4	5	6	7
1						
2						
3						
4						
.						
.						
.						
.						
.						
.						
.						
29						
30						

Note:

1. NPV will be calculated with the first financial year of operation as the base year
2. NPV of dividend payout in Col 3 will be calculated at discount rate of 14% for all the dividend payments to the last year of operation.
3. Net worth is Column 5 will comprise value of SPV assets after project assets have been transferred to Railways on termination of concession, reserves and termination payment received from Railways and other cash balance net of liability which are available for distribution among the shareholders as on 31st March.
4. Other assets will include any other asset which will be available for distribution to equity holder.
5. Sum total of Col 4&5 will be the free cash balance to equity, which will be finally available to equity holders for distribution on winding up of SPV on termination of concession.
6. Assessment of NPV payback will be done every year along with closing of account for the previous year.
7. Termination of Concession and transfer of assets will be subject to the provisions of Clause 9.1.

Retty.

Sanjay