
LOAN NUMBER 2793-IND

LOAN AGREEMENT
(Ordinary Operations)

(Railway Sector Investment Program – Tranche 1)

between

INDIA

and

ASIAN DEVELOPMENT BANK

DATED 9 JULY 2012

IND 36330

**LOAN AGREEMENT
(Ordinary Operations)**

LOAN AGREEMENT dated 9 July 2012 between INDIA acting by its President ("Borrower") and ASIAN DEVELOPMENT BANK ("ADB").

WHEREAS

(A) by a framework financing agreement dated 8 July 2011 between the Borrower and ADB, ADB has agreed to provide a multitranche financing facility to the Borrower for purposes of financing projects under the Railway Sector Investment Program;

(B) by a periodic financing request dated 8 July 2011, the Borrower has applied to ADB for a loan for the purposes of the Project described in Schedule 1 to this Loan Agreement;

(C) the Project will be carried out by the Ministry of Railways; except that Part A of the Project will be implemented by Rail Vikas Nigam Limited, and for this purpose the Borrower will make available to Rail Vikas Nigam Limited a part of the proceeds of the Loan provided for herein upon terms and conditions mutually agreeable to ADB and the Borrower; and

(D) ADB has agreed to make a loan to the Borrower from ADB's ordinary capital resources upon the terms and conditions set forth herein and in the Project Agreement of even date herewith between ADB and Rail Vikas Nigam Limited;

NOW THEREFORE the parties hereto agree as follows:

ARTICLE I

Loan Regulations; Definitions

Section 1.01. All the provisions of the Ordinary Operations Loan Regulations Applicable to LIBOR-Based Loans Made from ADB's Ordinary Capital Resources, dated 1 July 2001 ("Loan Regulations"), are hereby made applicable to this Loan Agreement with the same force and effect as if they were fully set forth herein, subject, however, to the following modifications:

(a) Section 2.01(50) is deleted and the following is substituted therefor:

"Project Agreement" means the Project Agreement of even date herewith between ADB and Rail Vikas Nigam Limited.

(b) The term "Project Executing Agency" appearing in Section 7.04(b), 9.01(d), 9.01(f), 9.01(k), 10.01(c) and 10.02(c) of the Loan Regulations shall be substituted by the term "Rail Vikas Nigam Limited".

- (c) Section 3.03 is deleted and the following is substituted therefor:

Commitment Charge; Credit. (a) The Borrower shall pay a commitment charge on the unwithdrawn amount of the Loan at the rate and on the terms specified in the Loan Agreement.

(b) ADB shall provide to the Borrower a credit at the rate specified in the Loan Agreement, which credit shall remain fixed for the term of the Loan. ADB shall apply the amount of the credit against the interest payable by the Borrower.

- (d) Section 3.06 is deleted and the following is substituted therefor:

(a) Following any announcement by ADB that the Fixed Spread applicable to new Loans shall be reduced, ADB shall provide a Rebate to any Borrower with an outstanding Loan on which a higher Fixed Spread is applicable. The amount of the Rebate shall be determined by multiplying (i) the difference between the Fixed Spread applicable to the outstanding Loan and the Fixed Spread that will be applied to new Loans (expressed as a percentage per annum), by (ii) the principal amount of the outstanding Loan on which the Borrower shall pay interest for all interest periods commencing on and after the effective date of the lower Fixed Spread that will be applied to new Loans.

(b) Following any announcement by ADB that its Funding Cost Margin calculations with respect to any Loan Currency (or Approved Currency) in any Semester resulted in ADB achieving savings, ADB shall provide a Rebate to the Borrower. The amount of the Rebate shall be determined by multiplying (i) the Funding Cost Margin (expressed as a percentage per annum) by (ii) the principal amount of the Loan on which the Borrower shall pay interest for the Interest Period commencing immediately after the Semester for which the Funding Cost Margin was calculated. ADB shall apply the amount of the Rebate against the interest payable by the Borrower for the Interest Period commencing immediately after the Semester for which the Funding Cost Margin was calculated.

- (e) Section 3.07 is deleted and the following is substituted therefor:

(a) Following any announcement by ADB that the Fixed Spread applicable to new Loans shall be increased, any Borrower with an outstanding Loan on which a lower Fixed Spread is applicable shall pay ADB a Surcharge. The amount of the Surcharge shall be determined by multiplying (i) the

difference between the Fixed Spread that will be applied to new Loans and the Fixed Spread applicable to the outstanding Loan (expressed as a percentage per annum), by (ii) the principal amount of the outstanding Loan on which the Borrower shall pay interest for all interest periods commencing on and after the effective date of the higher Fixed Spread that will be applied to new Loans.

(b) Following any announcement by ADB that its Funding Cost Margin calculations with respect to any Loan Currency (or Approved Currency) in any Semester resulted in ADB incurring additional costs, the Borrower shall pay ADB a Surcharge. The amount of the Surcharge shall be determined by multiplying (i) the Funding Cost Margin (expressed as a percentage per annum) by (ii) the principal amount of the Loan on which the Borrower shall pay interest for the Interest Period commencing immediately after the Semester for which the Funding Cost Margin was calculated. ADB shall add the amount of the Surcharge to the interest payable by the Borrower for the Interest Period commencing immediately after the Semester for which the Funding Cost Margin was calculated.

Section 1.02. Wherever used in this Loan Agreement, the several terms defined in the Loan Regulations have the respective meanings therein set forth unless modified herein or the context otherwise requires. Additional terms used in this Loan Agreement have the following meanings:

(a) "Consulting Guidelines" means the Guidelines on the Use of Consultants by Asian Development Bank and its Borrowers (2010, as amended from time to time);

(b) "Consulting Services" means the services to be financed out of the proceeds of the Loan as described in paragraph 3(c) of Schedule 1 to this Loan Agreement;

(c) "Environmental Assessment and Review Framework" or "EARF" means the environmental assessment and review framework for the Investment Program, including any update thereto, agreed between the Borrower and ADB and incorporated by reference in the FFA;

(d) "Environmental Management Plan" or "EMP" means each environmental management plan for the Project, including any update thereto, incorporated in the IEE;

(e) "Environmental Safeguards" means the principles and requirements set forth in Chapter V, Appendix 1, and Appendix 4 (as applicable) of the SPS;

(f) "Facility" means the multitranches financing facility provided by ADB to the Borrower for purposes of financing projects under the Investment Program;

(g) "FAM" means the facility administration manual dated 8 July 2011 and agreed between the Borrower and ADB, as updated from time to time in accordance with the respective administrative procedures of the Borrower and ADB;

(h) "FFA" means the framework financing agreement dated 8 July 2011 between ADB and the Borrower with respect to the Facility;

(i) "Financing Arrangements" means the arrangements between the Borrower and the MOR as per current policy of the Borrower, and acceptable to ADB;

(j) "Goods" means equipment and materials to be financed out of the proceeds of the Loan, including related services such as transportation, insurance, installation, commissioning, training, and initial maintenance, but excluding Consulting Services;

(k) "Indigenous Peoples Plan" or "IPP" means each indigenous peoples plan for the Project, including any update thereto, which may be required to be prepared and submitted by the Borrower pursuant to the requirements set forth in the IPPF and to be cleared by ADB;

(l) "Indigenous Peoples Planning Framework" or "IPPF" means the indigenous peoples planning framework for the Investment Program, including any update thereto, agreed between the Borrower and ADB and incorporated by reference in the FFA;

(m) "Indigenous Peoples Safeguards" means the principles and requirements set forth in Chapter V, Appendix 3, and Appendix 4 (as applicable) of the SPS;

(n) "Initial Environmental Examination" or "IEE" means each initial environmental examination for the Project, including any update thereto, prepared and submitted by the Borrower pursuant to the requirements set forth in the EARF and cleared by ADB;

(o) "Investment Program" means the Railway Sector Investment Program;

(p) "Involuntary Resettlement Safeguards" means the principles and requirements set forth in Chapter V, Appendix 2, and Appendix 4 (as applicable) of the SPS;

(q) "Loan Disbursement Handbook" means ADB's Loan Disbursement Handbook (2007, as amended from time to time);

(r) "MOR" means the Ministry of Railways of the Borrower, or any successor thereto acceptable to ADB;

(s) "Part" or "part" means a sub-component of the Project, as described in paragraph 3 of Schedule 1 to this Loan Agreement;

(t) "PFR" means the periodic financing request submitted or to be submitted by the Borrower, for the purposes of each loan under the Facility, and for the purpose of this Loan Agreement means the periodic financing request dated 8 July 2011;

(u) "Procurement Guidelines" means ADB's Procurement Guidelines (2010, as amended from time to time);

(v) "Procurement Plan" means the procurement plan for the Project dated 22 March 2011 and agreed between the Borrower and ADB, as updated from time to time in accordance with the Procurement Guidelines, the Consulting Guidelines, and other arrangements agreed with ADB;

(w) "Project Executing Agency" for the purposes of, and within the meaning of, the Loan Regulations means the MOR or any successor thereto acceptable to ADB, which is responsible for the carrying out of the Project;

(x) "Resettlement Framework" or "RF" means the resettlement framework for the Investment Program, including any update thereto, agreed between the Borrower and ADB and incorporated by reference in the FFA;

(y) "Resettlement Plan" or "RP" means each resettlement plan for the Project, including any update thereto, prepared and submitted by the Borrower pursuant to the requirements set forth in the RF and cleared by ADB;

(z) "RVNL" means Rail Vikas Nigam Limited, or any successor thereto acceptable to ADB;

(aa) "RVNL MOU" means the memorandum of understanding to be agreed between the Borrower (through MOR), and RVNL which sets out the administrative and financial arrangements to be agreed upon by the Borrower, ADB and RVNL regarding implementation of Part A of the Project by RVNL;

(bb) "Safeguard Policy Statement" or "SPS" means ADB's Safeguard Policy Statement (2009);

(cc) "Safeguards Monitoring Report" means each report prepared and submitted by the Borrower to ADB that describes progress with implementation of, and compliance with, the EMP, the RP and the IPP (as applicable), including any corrective and preventative actions; and

(dd) "Works" means construction or civil works to be financed out of the proceeds of the Loan, including services such as drilling or mapping, and project related services that are provided as part of a single responsibility or turnkey contract, but excluding Consulting Services.

ARTICLE II

The Loan

Section 2.01. (a) ADB agrees to lend to the Borrower from ADB's ordinary capital resources an amount of one hundred fifty million Dollars (\$150,000,000), as

such amount may be converted from time to time through a Currency Conversion in accordance with the provisions of Section 2.06 of this Loan Agreement.

(b) The Loan has a principal repayment period of 20 years, and a grace period as defined in subsection (c) hereinafter.

(c) The term "grace period" as used in subsection (b) hereinabove means the period prior to the first Principal Payment Date in accordance with the amortization schedule set forth in Schedule 2 to this Loan Agreement.

Section 2.02. The Borrower shall pay to ADB interest on the principal amount of the Loan withdrawn and outstanding from time to time at a rate for each Interest Period equal to the sum of LIBOR and 0.60% as provided by Section 3.02 of the Loan Regulations, less a credit of 0.20% as provided by Section 3.03 of the Loan Regulations.

Section 2.03. The Borrower shall pay a commitment charge of 0.15% per annum. Such charge shall accrue on the full amount of the Loan (less amounts withdrawn from time to time), commencing 60 days after the date of this Loan Agreement.

Section 2.04. Interest and other charges on the Loan shall be payable semiannually on 15 January and 15 July in each year.

Section 2.05. The Borrower shall repay the principal amount of the Loan withdrawn from the Loan Account in accordance with the provisions of Schedule 2 to this Loan Agreement.

Section 2.06. (a) The Borrower may at any time request any of the following Conversions of the terms of the Loan in order to facilitate prudent debt management:

- (i) a change of the Loan Currency of all or any portion of the principal amount of the Loan, whether withdrawn and outstanding or unwithdrawn, to an Approved Currency;
- (ii) a change of the interest rate basis applicable to all or any portion of the principal amount of the Loan withdrawn and outstanding from a Floating Rate to a Fixed Rate, or vice versa; and
- (iii) the setting of limits on the Floating Rate applicable to all or any portion of the principal amount of the Loan withdrawn and outstanding by the establishment of an Interest Rate Cap or Interest Rate Collar on said Floating Rate.

(b) Any conversion requested pursuant to subsection (a) hereinabove that is accepted by ADB shall be considered a "Conversion", as defined in Section 2.01(6) of the Loan Regulations, and shall be effected in accordance with the provisions of Article V of the Loan Regulations and the Conversion Guidelines.

ARTICLE III

Use of Proceeds of the Loan

Section 3.01. The Borrower shall make available:

- (a) a part of the proceeds of the Loan to RVNL under the RVNL MOU for carrying out Part A of the Project, and shall cause RVNL to apply such proceeds to the financing of expenditures on the Project in accordance with the provisions of this Loan Agreement and the Project Agreement; and
- (b) the balance of the proceeds of the Loan to MOR for carrying out Parts B and C of the Project under the Financing Arrangements upon terms and conditions mutually agreeable to ADB and the Borrower and shall cause MOR to apply such proceeds to the financing of expenditures on the Project in accordance with the provisions of this Loan Agreement.

Section 3.02. The proceeds of the Loan shall be allocated and withdrawn in accordance with the provisions of Schedule 3 to this Loan Agreement, as such Schedule may be amended from time to time by agreement between the Borrower and ADB.

Section 3.03. Except as ADB may otherwise agree, the Borrower shall procure, or cause to be procured, the items of expenditure to be financed out of the proceeds of the Loan in accordance with the provisions of Schedule 4 to this Loan Agreement. ADB may refuse to finance a contract where any such item has not been procured under procedures substantially in accordance with those agreed between the Borrower and ADB or where the terms and conditions of the contract are not satisfactory to ADB.

Section 3.04. Except as ADB may otherwise agree, the Borrower shall cause all items of expenditure financed out of the proceeds of the Loan to be used exclusively in the carrying out of the Project.

Section 3.05. The Loan Closing Date for the purposes of Section 9.02 of the Loan Regulations shall be 30 June 2018 or such other date as may from time to time be agreed between the Borrower and ADB.

ARTICLE IV

Particular Covenants

Section 4.01. (a) The Borrower shall cause the Project to be carried out with due diligence and efficiency and in conformity with sound applicable technical, financial, business and development practices.

(b) In the carrying out of the Project and operation of the Project facilities, the Borrower shall perform, or cause to be performed, all obligations set forth in Schedule 5 to this Loan Agreement.

Section 4.02. The Borrower shall make available, or cause to be made available, promptly as needed, the funds (including any residual financing for completion of contracts under the Project), facilities, services, land and other resources, as required, in addition to the proceeds of the Loan, for the carrying out of the Project.

Section 4.03. (a) In the carrying out of the Project, the Borrower shall cause competent and qualified consultants and contractors, acceptable to ADB, to be employed to an extent and upon terms and conditions satisfactory to the Borrower and ADB.

(b) The Borrower shall cause the Project to be carried out in accordance with plans, design standards, specifications, work schedules and construction methods acceptable to the Borrower and ADB, as applicable. The Borrower shall furnish, or cause to be furnished, to ADB, promptly after their preparation, such plans, design standards, specifications and work schedules, and any material modifications subsequently made therein, in such detail as ADB shall reasonably request.

Section 4.04. The Borrower shall ensure that the activities of its departments and agencies with respect to the carrying out of the Project and operation of the Project facilities are conducted and coordinated in accordance with sound administrative policies and procedures.

Section 4.05. The Borrower shall enable ADB's representatives to inspect the Project, the Goods and Works, and any relevant records and documents.

Section 4.06. The Borrower shall (a) maintain, or cause to be maintained, separate accounts for the Project; (b) have such accounts and related financial statements audited annually, in accordance with appropriate auditing standards consistently applied, by independent auditors whose qualifications, experience and terms of reference are acceptable to ADB; (c) furnish to ADB, as soon as available but in any event not later than 9 months after the end of each related fiscal year, certified copies of such audited accounts and financial statements and the report of the auditors relating thereto (including the auditors' opinion on the use of the Loan proceeds and compliance with the financial covenants of this Loan Agreement as well as on the use of the procedures for imprest account and statement of expenditures), all in the English language; and (d) furnish to ADB such other information concerning such accounts and financial statements and the audit thereof as ADB shall from time to time reasonably request.

Section 4.07. The Borrower shall ensure that any facilities relevant to the Project are operated, maintained and repaired in accordance with sound applicable technical, financial, business, development, operational and maintenance practices.

Section 4.08. The Borrower shall take all actions which shall be necessary on its part to enable RVNL to perform its obligations under the Project Agreement, and shall not take or permit any action which would interfere with the performance of such obligations.

Section 4.09. (a) In relation to the Project, the Borrower shall exercise its rights under the RVNL MOU and the Financing Arrangements in such a manner as to protect the interests of the Borrower and ADB and to accomplish the purposes of the Loan.

(b) In relation to the Project, no rights or obligations under the RVNL MOU or the Financing Arrangements shall be assigned, amended, abrogated or waived without prior notice to ADB.

ARTICLE V

Effectiveness

Section 5.01. A date 90 days after the date of this Loan Agreement is specified for the effectiveness of this Loan Agreement for the purposes of Section 10.04 of the Loan Regulations.

ARTICLE VI

Delegation of Authority

Section 6.01. In relation to Part A of the Project, the Borrower hereby designates RVNL as its agent for the purposes of taking any action or entering into any agreement required or permitted under Section 3.03 of this Loan Agreement.

Section 6.02. Any action taken or any agreement entered into by RVNL pursuant to the authority conferred under Section 6.01 of this Loan Agreement shall be fully binding on the Borrower and shall have the same force and effect as if taken by the Borrower.

Section 6.03. The authority conferred on RVNL under Section 6.01 of this Loan Agreement may be revoked or modified by agreement between the Borrower and ADB.

ARTICLE VII

Miscellaneous

Section 7.01. The Secretary, Additional Secretary, Joint Secretary, Director, or Deputy Secretary, in the Department of Economic Affairs of the Ministry of Finance of the Borrower is designated as representative of the Borrower for the purposes of Section 12.02 of the Loan Regulations.

Section 7.02. The following addresses are specified for the purposes of Section 12.01 of the Loan Regulations:

For the Borrower

The Secretary to the Government of India
Ministry of Finance
Department of Economic Affairs
North Block
New Delhi – 110 001
India

Facsimile Numbers:

91 11 23094075
91 11 23092511

For ADB


Asian Development Bank
6 ADB Avenue
Mandaluyong City
1550 Metro Manila
Philippines

Facsimile Numbers:

(632) 636-2444
(632) 636-2340.

IN WITNESS WHEREOF the parties hereto, acting through their representatives thereunto duly authorized, have caused this Loan Agreement to be signed in their respective names as of the day and year first above written and to be delivered at the principal office of ADB.

INDIA

By 

VENU RAJAMONY
Joint Secretary (MI)
Department of Economic Affairs

ASIAN DEVELOPMENT BANK

By 

HUN KIM
Country Director

SCHEDULE 1**Description of the Project**

1. The objective of the Investment Program is to improve the transport system in India by developing an energy-efficient, safe, reliable, affordable and environment-friendly railway system.

2. As a part of the Investment Program, the Project aims to expand physical rail infrastructure along the high density corridors, improve operational efficiency of MOR, and promote clean development mechanism.

3. The Project shall consist of:

Part A - Railway improvement

(a) Double tracking of approximately 840 km rail routes, including supply of rails and switches, at Daund-Gulbarga section; Sambalpur-Titlagarh section; Raipur-Titlagarh section; and Hospet-Taniaghat section.

(b) Electrification of approximately 640 km rail route at Pune-Wadi Guntakal section.

(c) Provision of general consulting support for overall management of the Project and the Investment Program.

Part B - Efficiency enhancement

Provision of equipment and support to implement a part of the institution strengthening action plan of MOR, focusing on implementation of the new accounting systems.

Part C - Clean Development Mechanism

Provision of implementation support to MOR for carbon mitigation and carbon credits activities.

4. The Loan will finance select contract packages under the Project as more fully set out in Annexure 2 to the PFR.

5. The Project is expected to be completed by 31 December 2017.

SCHEDULE 2

Amortization Schedule

(Railway Sector Investment Program – Tranche 1)

1. The following table sets forth the Principal Payment Dates of the Loan and the percentage of the total principal amount of the Loan payable on each Principal Payment Date (Installment Share). If the proceeds of the Loan shall have been fully withdrawn as of the first Principal Payment Date, the principal amount of the Loan repayable by the Borrower on each Principal Payment Date shall be determined by ADB by multiplying: (a) the total principal amount of the Loan withdrawn and outstanding as of the first Principal Payment Date; by (b) the Installment Share for each Principal Payment Date, such repayment amount to be adjusted, as necessary, to deduct any amounts referred to in paragraph 4 of this Schedule, to which a Currency Conversion applies.

<u>Payment Due</u>	<u>Installment Share</u> (Expressed as a %)
15 January 2017	0.827816
15 July 2017	0.869207
15 January 2018	0.912667
15 July 2018	0.958301
15 January 2019	1.006216
15 July 2019	1.056526
15 January 2020	1.109353
15 July 2020	1.164820
15 January 2021	1.223061
15 July 2021	1.284214
15 January 2022	1.348425
15 July 2022	1.415846
15 January 2023	1.486639
15 July 2023	1.560971
15 January 2024	1.639019
15 July 2024	1.720970
15 January 2025	1.807019
15 July 2025	1.897369
15 January 2026	1.992238
15 July 2026	2.091850
15 January 2027	2.196442
15 July 2027	2.306264
15 January 2028	2.421578
15 July 2028	2.542657
15 January 2029	2.669789
15 July 2029	2.803279
15 January 2030	2.943443
15 July 2030	3.090615
15 January 2031	3.245146
15 July 2031	3.407403

<u>Payment Due</u>	<u>Installment Share</u> (Expressed as a %)
15 January 2032	3.577773
15 July 2032	3.756662
15 January 2033	3.944495
15 July 2033	4.141720
15 January 2034	4.348806
15 July 2034	4.566246
15 January 2035	4.794558
15 July 2035	5.034286
15 January 2036	5.286000
15 July 2036	5.550311
Total	100.000000

2. If the proceeds of the Loan shall not have been fully withdrawn as of the first Principal Payment Date, the principal amount of the Loan repayable by the Borrower on each Principal Payment Date shall be determined as follows:

(a) To the extent that any proceeds of the Loan shall have been withdrawn as of the first Principal Payment Date, the Borrower shall repay the amount withdrawn and outstanding as of such date in accordance with paragraph 1 of this Schedule.

(b) Any withdrawal made after the first Principal Payment Date shall be repaid on each Principal Payment Date falling after the date of such withdrawal in amounts determined by ADB by multiplying the amount of each such withdrawal by a fraction, the numerator of which shall be the original Installment Share specified in the table in paragraph 1 of this Schedule for said Principal Payment Date (the Original Installment Share) and the denominator of which shall be the sum of all remaining Original Installment Shares for Principal Payment Dates falling on or after such date, such repayment amounts to be adjusted, as necessary, to deduct any amounts referred to in paragraph 4 of this Schedule, to which a Currency Conversion applies.

3. Withdrawals made within two calendar months prior to any Principal Payment Date shall, for the purposes solely of calculating the principal amounts payable on any Principal Payment Date, be treated as withdrawn and outstanding on the second Principal Payment Date following the date of withdrawal and shall be repayable on each Principal Payment Date commencing with the second Principal Payment Date following the date of withdrawal.

4. Notwithstanding the provisions of paragraphs 1 and 2 of this Schedule, upon a Currency Conversion of all or any portion of the withdrawn principal amount of the Loan to an Approved Currency, the amount so converted in said Approved Currency that shall be repayable on any Principal Payment Date occurring during the Conversion Period, shall be determined by ADB by multiplying such amount in its currency of denomination immediately prior to said Conversion by either: (i) the exchange rate that reflects the amounts of principal in said Approved Currency payable by ADB under the Currency Hedge Transaction relating to said Conversion; or (ii) if ADB so determines in accordance with the Conversion Guidelines, the exchange rate component of the Screen Rate.

5. If the principal amount of the Loan withdrawn and outstanding from time to time shall be denominated in more than one Loan Currency, the provisions of this Schedule shall apply separately to the amount denominated in each Loan Currency, so as to produce a separate amortization schedule for each such amount.

SCHEDULE 3**Allocation and Withdrawal of Loan Proceeds**General

1. The table attached to this Schedule sets forth the Categories of items of expenditure to be financed out of the proceeds of the Loan and the allocation of the Loan proceeds to each such Category ("Table"). (Reference to "Category" in this Schedule is to a Category or Subcategory of the Table).

Percentages of ADB Financing

2. Except as ADB may otherwise agree, each item of expenditure shall be financed out of the proceeds of the Loan on the basis of the percentages set forth in the Table.

Reallocation

3. Notwithstanding the allocation of Loan proceeds and the withdrawal percentages set forth in the Table,

(a) if the amount of the Loan allocated to any Category appears to be insufficient to finance all agreed expenditures in that Category, ADB may, in consultation with the Borrower, (i) reallocate to such Category, to the extent required to meet the estimated shortfall, amounts of the Loan which have been allocated to another Category but, in the opinion of ADB, are not needed to meet other expenditures, and (ii) if such reallocation cannot fully meet the estimated shortfall, reduce the withdrawal percentage applicable to such expenditures in order that further withdrawals under such Category may continue until all expenditures thereunder shall have been made; and

(b) if the amount of the Loan allocated to any Category appears to exceed all agreed expenditures in that Category, ADB may, in consultation with the Borrower, reallocate such excess amount to any other Category.

Disbursement Procedures

4. Except as ADB may otherwise agree, the Loan proceeds shall be disbursed in accordance with the Loan Disbursement Handbook.

Statement of Expenditures

5. The statement of expenditures procedure may be used for reimbursement of eligible expenditures, in accordance with the Loan Disbursement Handbook and detailed arrangements agreed upon between the Borrower and ADB. Any individual payment to be reimbursed or liquidated under the statement of expenditures procedure shall not exceed the equivalent of \$100,000.

Retroactive Financing

6. Withdrawals from the Loan Account may be made for reimbursement of eligible expenditures incurred under the Project before the Effective Date, but not earlier than 12 months before the date of this Loan Agreement in connection with items to be retroactively financed, subject to a maximum amount equivalent to 20% of the Loan amount.

TABLE

ALLOCATION AND WITHDRAWAL OF LOAN PROCEEDS (Railway Sector Investment Program – Tranche 1)			
CATEGORY			ADB FINANCING
Number	<u>Item</u>	<u>Total Amount Allocated for ADB Financing (\$) Category</u>	Percentage and Basis for Withdrawal from the Loan Account
1	Works	73,800,000	39.1% of total expenditure claimed
2	Goods	47,200,000	100% of total expenditure claimed*
3	Consulting Services	2,600,000	100% of total expenditure claimed*
4	Unallocated	26,400,000	
	Total	150,000,000	

*Exclusive of taxes and duties imposed within the territory of the Borrower

SCHEDULE 4**Procurement of Goods, Works and Consulting Services**General

1. The procurement of Goods, Works and Consulting Services shall be subject to and governed by the Procurement Guidelines, and the Consulting Guidelines, respectively.
2. All terms used in this Schedule and not otherwise defined in this Loan Agreement have the meanings provided in the Procurement Guidelines and/or the Consulting Guidelines, as applicable.

Goods and Works

3. Except as ADB may otherwise agree, Goods and Works shall only be procured on the basis of the following method of procurement: International Competitive Bidding.
4. The method of procurement is subject to, among other things, the detailed arrangements and threshold values set forth in the Procurement Plan. The Borrower may only modify the method of procurement or threshold values with the prior agreement of ADB, and modifications must be set out in updates to the Procurement Plan.

Domestic Preference

5. The Borrower may grant a margin of preference in the evaluation of bids under international competitive bidding in accordance with paragraphs 2.55(a) and 2.56 of the Procurement Guidelines for domestically manufactured Goods.

Conditions for Award of Contract

6. The Borrower shall not award any Works contract for any part of the Project which involves environmental impacts until RVNL has:
 - (a) obtained the final approval of the IEE from the relevant environment authority of the Borrower; and
 - (b) incorporated the relevant provisions from the EMP into the Works contract.
7. The Borrower shall not award any Works contract involving involuntary resettlement impacts for any part of the Project until the Borrower has prepared and submitted to ADB the final RP for such part of the Project based on its detailed design, and obtained ADB's clearance of such RP.
8. The Borrower shall not award any Works contract for part of the Project which involves impacts on indigenous peoples until the Borrower has prepared and submitted to ADB the final IPP and obtained ADB's clearance of such IPP.

Consulting Services

9. Except as ADB may otherwise agree, and set forth in the Procurement Plan, the Borrower shall apply quality- and cost-based selection for selecting and engaging Consulting Services.

Industrial or Intellectual Property Rights

10. (a) The Borrower shall ensure that all Goods and Works procured (including without limitation all computer hardware, software and systems, whether separately procured or incorporated within other goods and services procured) do not violate or infringe any industrial property or intellectual property right or claim of any third party.

(b) The Borrower shall ensure that all contracts for the procurement of Goods and Works contain appropriate representations, warranties and, if appropriate, indemnities from the contractor or supplier with respect to the matters referred to in subparagraph (a) of this paragraph.

11. The Borrower shall ensure that all ADB-financed contracts with consultants contain appropriate representations, warranties and, if appropriate, indemnities from the consultants to ensure that the Consulting Services provided do not violate or infringe any industrial property or intellectual property right or claim of any third party.

ADB's Review of Procurement Decisions

12. Contracts procured under international competitive bidding procedures and contracts for Consulting Services shall be subject to prior review by ADB, unless otherwise agreed between the Borrower and ADB and set forth in the Procurement Plan.

SCHEDULE 5**Execution of Project; Financial Matters**Implementation Arrangements

1. The Borrower, MOR and RVNL shall ensure that the Project is implemented in accordance with the detailed arrangements set forth in the FAM. Any subsequent change to the FAM shall become effective only after approval of such change by the Borrower and ADB. In the event of any discrepancy between the FAM and this Loan Agreement, the provisions of this Loan Agreement shall prevail.
2. Within 3 months of signing of the FFA, MOR and RVNL shall, for their respective components, develop a systematic project performance monitoring system acceptable to ADB for the term of the Facility.
3. Within 3 months of the Effective Date, MOR and RVNL shall establish baseline for performance indicators to be used for monitoring implementation of the Project, and each other project under the Facility.
4. The Borrower shall enable ADB's representatives to review and examine the Project, the Goods and Works, and any relevant records and documents. The Borrower, MOR and RVNL shall ensure that all contracts financed by ADB in connection with the Project shall include provisions specifying the right of ADB to review and examine the records and accounts of the Borrower, MOR, RVNL, and all contractors, suppliers, consultants, and other service providers as they relate to the Project. The Borrower, MOR and RVNL shall allow and assist ADB's representatives to carry out random spot checks on the work in progress and utilization of funds for the Project.
5. The Borrower shall ensure that (a) MOR and RVNL publish pertinent information relating to the Project on their respective websites, including business opportunities associated with the Project, and information on procurement of Goods, Works, and Consulting Services; and (b) RVNL makes available to ADB on request copies of internal audit reports in relation to its quarterly internal audits.
6. The Borrower shall ensure that MOR and RVNL (to the extent applicable to RVNL) shall progress the implementation of the institutional strengthening action plan as set out in Appendix 2 to Schedule 1 of the FFA.

Environment

7. (a) The Borrower shall ensure, and cause MOR and RVNL to ensure, that the preparation, design, construction, implementation, operation and decommissioning of the Project, and all Project facilities comply with (i) all applicable laws and regulations of the Borrower relating to environment, health, and safety; (ii) the Environmental Safeguards; (iii) the EARF; and (iv) all measures and requirements set forth in the respective IEE and EMP, and any corrective or preventative actions set forth in a Safeguards Monitoring Report.

(b) The Borrower shall ensure, and cause MOR and RVNL to ensure, that Works under a contract shall not be commenced in the relevant section, until the forestry clearance and permits from the State pollution control boards for operation of hot mix plants are obtained.

Land Acquisition and Involuntary Resettlement

8. The Borrower shall ensure, and cause MOR and RVNL to ensure, that all land and all rights-of-way required for the Project, and all Project facilities are made available to the Works contractor in accordance with the schedule agreed under the related Works contract and all land acquisition and resettlement activities are implemented in compliance with (a) all applicable laws and regulations of the Borrower relating to land acquisition and involuntary resettlement; (b) the Involuntary Resettlement Safeguards; (c) the RF; and (d) all measures and requirements set forth in the respective RP, and any corrective or preventative actions set forth in a Safeguards Monitoring Report.

9. Without limiting the application of the Involuntary Resettlement Safeguards, the RF or the RP, the Borrower shall ensure, and cause MOR and RVNL to ensure, that no physical or economic displacement takes place in connection with the Project until:

- (a) compensation and other entitlements have been provided to affected people in accordance with the RP; and
- (b) a comprehensive income and livelihood restoration program has been established in accordance with the RP.

Indigenous Peoples

10. The Borrower shall ensure, and cause MOR and RVNL to ensure, that the preparation, design, construction, implementation and operation of the Project, and all Project facilities comply with (a) all applicable laws and regulations of the Borrower relating to indigenous peoples; (b) the Indigenous Peoples Safeguards; (c) the IPPF; and (d) all measures and requirements set forth in the respective IPP and any corrective or preventative actions set forth in a Safeguards Monitoring Report.

Human and Financial Resources to Implement Safeguards Requirements

11. The Borrower shall make available, and cause MOR and RVNL to make available necessary budgetary and human resources to fully implement the EMP, the RP and the IPP.

Safeguards – Related Provisions in Bidding Documents and Works Contracts

12. The Borrower shall ensure, and cause MOR and RVNL to ensure, that all bidding documents and contracts for Works contain provisions that require contractors to:

- (a) comply with the measures and requirements relevant to the contractor set forth in the IEE, the EMP, the RP and the IPP (to the extent they concern impacts on affected people during construction), and any

corrective or preventative actions set out in a Safeguards Monitoring Report;

- (b) make available a budget for all such environmental and social measures; and
- (c) provide the Borrower and ADB with a written notice of any unanticipated environmental, resettlement or indigenous peoples risks or impacts that arise during construction, implementation or operation of the Project that were not considered in the IEE, the EMP, the RP or the IPP.

Safeguards Monitoring and Reporting

13. The Borrower shall do the following, and shall cause MOR and RVNL to do the following:

- (a) submit semi-annual Safeguards Monitoring Reports to ADB and disclose relevant information from such reports to affected persons promptly upon submission;
- (b) if any unanticipated environmental and/or social risks and impacts arise during construction, implementation or operation of the Project that were not considered in the IEE, the EMP, the RP or the IPP, promptly inform ADB of the occurrence of such risks or impacts, with detailed description of the event and proposed corrective action plan;
- (c) no later than 90 of the Effective Date, engage qualified and experienced external expert or qualified NGO under a selection process and terms of reference acceptable to ADB, to verify information produced through the Project monitoring process, and facilitate the carrying out of any verification activities by such external expert; and
- (d) report any actual or potential breach of compliance with the measures and requirements set forth in the EMP, the RP or the IPP promptly after becoming aware of the breach.

Prohibited List of Investments

14. The Borrower shall ensure, and or cause MOR and RVNL to ensure that no proceeds of the Loan are used to finance any activity included in the list of prohibited investment activities provided in Appendix 5 of the SPS.

Social

15. The Borrower, MOR and RVNL shall ensure that Works contracts under the Project follow all applicable labor laws of the Borrower and the States and that these further include provisions to the effect that contractors (a) carry out HIV/AIDS awareness programs

for labor and disseminate information at worksites on risks of sexually transmitted diseases and HIV/AIDS as part of health and safety measures for those employed during construction; and (b) follow and implement all statutory provisions on labor (including not employing or using children as labor, equal pay for equal work), health, safety, welfare, sanitation, and working conditions. Such contracts shall also include clauses for termination in case of any breach of the stated provisions by the contractors.