MEMORANDUM OF UNDERSTANDING

BETWEEN

MINISTRY OF RAILWAYS

AND

GOVERNMENT OF ODISHA

FOR

FORMATION OF A

JOINT VENTURE
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This Memorandum of Understanding ("MOU") is made on the 4th
day of November, 2015 by and between:

The Ministry of Railways represented by the Chairman, Railway
Board (hereinafter referred to as "MoR");

AND

The Government of Odisha represented by Chief Secretary
(hereinafter referred to as "Govt. of Odisha").

The expressions "MoR" and "Govt. of Odisha" shall, wherever the
context admits, mean and include their respective successors-in-
interest and permitted assigns and shall hereafter be referred to
individually as "Party" and collectively as "Parties".

WHEREAS, this MOU is signed between Ministry of Railways and
Government of Odisha, for formation of a Joint Venture Company
("JV") to undertake project development, financing and
implementation of identified railway projects. The JV would be
incorporated as a limited liability company under the Companies
Act 2013, and MoR and Govt. of Odisha will participate in the
equity of the JV.

AND WHEREAS, the Parties agree that there is a need for
development of rail infrastructure for critical connectivity/ capacity
enhancement.
NOW, THEREFORE, in consideration of the foregoing, the Parties hereby have agreed upon the following:

1. Projects important for critical connectivity/capacity enhancement, as agreed by the Parties, will be taken up for development, financing and implementation.

2. The JV will have the following shareholding:

<table>
<thead>
<tr>
<th>Party</th>
<th>Equity Share (%)</th>
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<tbody>
<tr>
<td>Ministry of Railways</td>
<td>49%</td>
</tr>
<tr>
<td>Government of Odisha</td>
<td>51%</td>
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3. The JV will have an authorized share capital of Rs. 200 Cr. with the initial paid-up capital of Rs. 100 cr.

4. In order to record their understanding in relation to the management and control of the JVC as well as the *inter se* rights of the parties, the Parties shall execute a joint venture/shareholders' agreement to set out the terms and conditions which shall govern the *inter se* rights and obligations of the shareholders of the JVC.

5. The MoU shall expire upon execution of the Joint Venture/Shareholders' Agreement.

6. JV would undertake project development works for an identified basket of projects, which will *inter alia* include surveys, preparation of Detailed Project Report (DPR) and its approval from MoR/Govt. Odisha, processing for sanctioning of identified projects both by Govt. of Odisha and the MoR. JV will also undertake the implementation of the identified projects directly or through subsidiaries.

7. JV would be permitted to take officials including board level officers from the Govt. of Odisha & MoR on deputation terms.
Salary and perks of the officials of the JV shall be at par with Schedule 'A' public sector companies of Central Government.

8. The JV would have corporate headquarter at Bhubaneswar. The JV will have one part time Chairman, one whole time managing director, two whole time directors and six part time directors. JV would have two part time directors each from the Govt. of Odisha and MoR. Two part time independent directors shall be drawn from private sector/ Public Sector Units/educational institutes, and shall be experts in the respective fields. Managing Director shall be selected by a Select Committee comprising of representatives from MoR and Govt. of Odisha. The Board shall also be mandated to take decisions regarding additions and alterations in the scope of work with overall objective & mandate of the work being same as agreed upon in the sanction of the work.

9. JV can form project specific subsidiary companies (“Project SPVs”) to undertake each of the identified projects. The Project SPVs would be incorporated as limited liability company under the Companies Act, 2013. The initial equity in the Project SPVs is to be contributed by the JV. The MoR and Govt. of Odisha would infuse equity in Project SPV only through the JV, and hence, subject to para 3 and 10 of this MOU, their stake would be mirroring their shareholding in the JV.

10. The Project SPVs may have equity holding by other stakeholders also, such as banks, PSUs, ports, mines etc. as well, to cater to a specific project. The equity holding of the JV in the Project SPV should be at least 26%.

11. The JV / respective Project SPV would coordinate with the respective authorities /departments at MoR and Govt. of Odisha for sanction of the project to be undertaken.
12. In view of the limited availability of the resources, including funds, the JV should prefer only the viable projects for implementation.

13. Once the project is sanctioned, a Concession Agreement, with concession period up to 30 years, will be signed between the Railways and the Project SPV. The land acquisition will be done by Govt. of Odisha and project implementation by concerned Zonal Railway or any other agency as decided by the Project SPV in consultation with MoR. Notwithstanding anything contained elsewhere, other options may also be considered for the acquisition of land (as required for the implementation of the project). Operations and maintenance of the project will be done by Indian Railways, cost of which will be chargeable to the Project SPV. The Indian Railways will provide last mile connectivity to the projects and the costs for such last mile connectivity shall be borne by Project SPVs, through an appropriate mechanism as mutually agreed.

14. The ownership of the land acquired for the project will vest with the Project SPV which will bear the cost of land. In case of non-viable projects, apart from equity etc., land may be provided by the State Govt. free of cost, however ownership of which will vest with the Project SPV.

15. Railway will have the option to take over the assets at the end of the concession period of 30 years, or at termination of the Concession Agreement at a nominal price of Re. 1. The land however would be transferred to Railway at the original acquisition cost incurred by the Project SPV, if any. However, if the Railway does not exercise the option of taking over the assets, these will continue to be with the Project SPV under existing terms and conditions.

16. Project SPVs would arrange financial support and resources from various stakeholders of the projects, and if feasible, in
the form of debt from banks/multi-lateral agencies/ Financial Institutions as debt funding.

17. The entire debt for the project will be serviced by the Project SPV during the concession period, out of the apportioned earning transferred to the Project SPV by the Railways. The apportionment of earning for the project between Railways and Project SPV will be based on the principles specified in Indian Railways Financial Adjustment (IRFA) Rules.

18. In the unlikely event of the Project SPV making loss, the losses will be borne by the equity partners of the Project SPV in proportion of their (then) shareholding on a fully diluted basis. In the event of Railways exercising the option of taking over the assets from the Project SPV, the Railway will not be liable to bear the accumulated losses.

19. In case more than one State Governments are interested in a project, the Project SPV may be formed with equity investment by the JV i.e. equity contribution by the MoR and Govt. of Odisha and direct equity investment from other interested states. Shareholding of such Project SPV will be mutually agreed and the inter-se rights will be governed by the respective shareholders' agreement.

20. Apex Committee shall be formed for expediting the projects being implemented under the JV (including the Project SPVs). The committee shall comprise of representatives of the Govt. of Odisha and the MoR. Apex committee shall meet once in two months, or such interval as may be required to resolve problems being faced in speedier execution of the projects.

21. Each Party shall nominate at least one representative and a Nodal officer for implementation of this MOU.

22. Any dispute or difference arising between the Parties shall be settled amicably.
23. This MoU shall be without prejudice to any other MoU entered into between the Parties earlier, and shall not in any way affect any other understanding as may be necessary for any other project.

24. The Parties may, with mutual consent, decide on further amendments to this MOU, as may be considered necessary to ensure smooth and efficient execution of the Projects.

25. All notices, statements or other communication required or permitted to be given or made under this MOU shall be in writing in the English language and delivered by hand, email or facsimile transmission addressed to the intended recipient at its address set forth below:

IN WITNESS thereof, the PARTIES hereto have signed this MOU on the date first written above by their duly authorized representatives.

For and on behalf of the
President of India

(Ved Parkash Dudeja)
Executive Director/Works
Ministry of Railways

Date: 04.11.2015

For and on behalf of the
Governor of Odisha

(Sanjay Rastogi)
Commissioner cum Secretary
Government of Odisha

Place: New Delhi

WITNESSES:

1. (MOHAT LILA, DIR/RMN/RAI) 2. (S.K. Pandey, ED/IPE/DIR/RAI)

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