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*Colonial Secretary's Office, Perth, 12th March, 1886.*

HIS Excellency the Governor has been pleased to direct the publication of the following Contract, for general information.

By Command,

M. S. SMITH,

Acting Colonial Secretary.

*Contract for the construction, equipment, maintenance, and working of a Railway between Guildford and the Greenough Flats, on the Land Grant System, and for the introduction of Immigrants in connection therewith, and for other purposes; dated 27th February, 1886.*

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## Contract.

**This Indenture** made the twenty-seventh day of February 1886 BETWEEN SIR FREDERICK NAPIER BROOME Knight Commander of the Most Distinguished Order of Saint Michael and Saint George Governor and Commander-in-Chief in and over the Colony of Western Australia and its Dependencies &c. &c. &c. acting for and on behalf of THE GOVERNMENT AND COLONY of WESTERN AUSTRALIA of the one part and JOHN WADDINGTON of No. 35 King William Street in the City of London Esquire acting in this behalf by RICHARD PRICE-WILLIAMS Civil Engineer now temporarily residing in Perth in the said Colony of Western Australia his true and lawful Attorney duly authorised in this behalf under and by virtue of a Deed Poll or Power of Attorney under the hand and seal of the said JOHN WADDINGTON bearing date the twenty-sixth day of November 1885 (hereinafter called the Contractor) of the other part.

**Whereas** the Government of Western Australia (hereinafter called the Government) are about to construct a Railway (hereinafter called the Geraldton-Greenough Railway) from Geraldton in the said Colony to the Greenough Flats which Railway it is proposed shall have its southern terminus at or near Walkaway on the said Greenough Flats:

**And whereas** the Government is desirous of promoting the immigration of Europeans into the Colony:

**And whereas** the Contractor has laid proposals before the Government with a view to arrangements being made for the construction working and management of a Railway from Guildford aforesaid to the said southern terminus of the Geraldton-Greenough Railway and also as to immigration as aforesaid and the Government has entertained and approved of such proposals and it has accordingly been agreed that these presents shall be entered into by way of Contract to carry out the said proposals and to do all other things necessary to insure the formation construction working and management of the said Railway and also for purposes relating to the immigration of Europeans into the Colony and other purposes herein appearing:

**Now this Indenture Witnesseth** that it is hereby agreed and declared by and between the parties hereto as follows that is to say—

1. The Railway and works relating thereto to be constructed under this Contract (hereinafter referred to as “the Railway”) shall consist of and comprise—

(a)—A line of Railway the general route of which shall be from Guildford *via* Gingin Victoria Plains Upper Irwin and Dongarra to the said southern terminus of the Geraldton-

Definition of  
Railway and  
Works.

Greenough Railway proceeding in such direction as shall be approved of by the Commissioner of Railways for the Colony for the time being appointed under "The Railways Act 1878" or such other person as may from time to time be appointed by the Governor to act as Commissioner of Railways for the purposes of these presents (hereinafter called "the Commissioner") and also indicated upon a plan hereinafter referred to as the said plan to be submitted by the Contractor and signed by the Commissioner or within such limits of deviation therefrom as hereinafter mentioned the points of commencement to be determined as provided in Clause 13 hereof.

(b)—All necessary sidings passing places stations offices engine-houses goods and cattle depôts turntables signals signal cabins telegraphs and other works for the due and efficient working of the Railway.

(c)—All such necessary and sufficient under and over bridges and level crossings accommodation roads approaches cattle creeps watercourses drains culverts and other works as may be necessary for the accommodation or protection of the lands intersected by the Railway.

2. The line of the Railway to be agreed upon as aforesaid shall be considered as divided for the purposes of this present clause into sections of 20 miles each which shall be commenced and continued as mentioned in Clause 13 hereof and it shall be lawful for the Contractor in respect of any such section so far to deviate from the line shown on the said plan as that the portion of the line actually constructed between points opposite to and at right angles to the extremities of such section shall not without the consent in writing of the Commissioner exceed 23 miles and that no part of such portion shall without the like consent be more than five miles distant from the line shown on the said plan.

3. For the purpose of the construction of the Railway the Contractor shall and may subject to the provisions of the Railways Act 1878 so far as the same applies in the case of lands already granted by the Crown or the Government but in all other cases without any further notice or authority enter upon and take a strip of land along the whole length of the Railway subject to deviation as aforesaid not exceeding in any part where it is proposed to construct the Railway through fee simple properties or town sites one chain in width or in any other part three chains in width and such land shall be used for the purposes of the Railway and for no other purpose whatever Provided always that with the consent in writing of the Commissioner the Contractor in either case may in any place where by reason of exceptional engineering difficulties a further width shall be required take in such further width as may be necessary.

4. The Contractor shall and may also in like manner as aforesaid enter upon and take in such places and to such extent as he with the consent in writing of the Commissioner shall think fit or as the Commissioner in writing shall direct such quantities of land adjoining the strip aforesaid as shall be necessary and sufficient for the erection and construction of workshops stations sidings depôts and station yards and approaches thereto and for the

Limits of deviation of Line.

Power to take Land of limited width for the line.

Power to take extra width for extraordinary purposes.

Power to take Land for Stations, &c.

accommodation works to be made as aforesaid and such lands so taken shall on completion of the section contiguous thereto vest in and be granted to the Contractor in fee simple and such lands shall be used for the purposes of the Railway and for no other purpose.

5. Any compensation payable in respect of the lands so entered upon and taken by the Contractor shall be paid by the Contractor. The amount of such compensation shall be assessed by the Commissioner and in case of dispute shall be determined by arbitration in the manner hereinafter mentioned.

Compensation in respect of lands taken to be paid by Contractor.

6. Provided always that the Contractor shall not be at liberty to enter upon or take any lands for any of the purposes as aforesaid after the time hereby limited for the completion and opening of the Railway.

Limit of time for taking Land for Railway.

7. The whole of the costs of surveying and laying and staking out the line of the Railway and the lands to be taken as aforesaid and the costs of the construction and maintenance of the Railway and works aforesaid and of all labor and materials for the same shall be borne and paid for by the Contractor.

All costs of surveys, construction, &c., to be borne by the Contractor.

8. All engines rolling stock and rails and other materials for permanent way required solely for use in the construction of the Railway shall be carried over the Government Railways at a reduction from the current rates for the time being in force on those Railways (the amount of such reduction to be settled by the Commissioner) and if imported shall be (subject to the approval of the Legislative Council) imported into the Colony duty free.

Certain Engines, Rolling Stock and Materials to be conveyed on Government Railways at reduced rates, and imported duty free.

9. The whole of the Railway and works shall be the absolute property of the Contractor subject as to the accommodation works to the right of user and enjoyment thereof by the persons for whose benefit the same shall be constructed and subject also to the right of entry user and possession mentioned in Clause 58 hereof.

Railway to be the property of the Contractor.

10. The Contractor will lay out construct and equip the Railway upon the same gauge as the Eastern Railway with sufficient plant and rolling stock for the efficient working of the same. And the whole of the permanent way plant and rolling stock used in the construction equipment maintenance and working of the Railway shall be at least equal in quality to that in use by the Government and be subject to the approval of the Commissioner but the Contractor shall have power to alter the gauge and the rolling stock of the Railway should a trans-continental line be hereafter constructed and should it be decided that the gauge of that line be greater or less than that of the Railway so that the gauge of the Railway shall be the same as the gauge of the said trans-continental line.

Gauge of Line and Quality of Materials.

11. The survey for laying out the Railway shall be *bona fide* commenced within one year from the date of this Contract and shall be prosecuted without unreasonable delay or interruption by a sufficient staff of Engineers and assistants to the satisfaction of the Commissioner and the actual construction shall be commenced within two years from the same date and shall be diligently continued without unreasonable delay or intermission so that at least 100 miles of the Railway may be completed equipped and fit for public traffic and opened within four years from the same date and not less than 50 miles in each subsequent year.

Time for Survey and Construction.

Power to postpone construction of stations, &c.

12. Provided always that the Contractor may from time to time with the consent in writing of the Commissioner postpone the construction of any of the works mentioned in paragraph (b) of Clause 1 for such period as the Commissioner may allow but so that it shall be the duty of the Contractor at the expiration of such period if the time be not again extended in like manner forthwith to construct such works to the satisfaction of the Commissioner.

Termini of the Railway.

13. The construction of the said line of Railway shall be commenced simultaneously at Guildford and at the said southern terminus of the Geraldton-Greenough Railway and shall be carried on simultaneously northwards and southwards from Guildford and such terminus respectively in sections of 20 miles each in length and shall be completed at a point equi-distant from both points of commencement. The actual points of commencement shall be determined by the Contractor subject to the Commissioner's written approval or in case of difference by arbitration in manner hereinafter mentioned.

The line as constructed to be divided into and completed in 20 mile sections.

14. The line of the Railway shall be divided into and completed in sections of 20 miles each in length or in deviated sections as aforesaid of not more than 23 miles each commencing from the starting point of the first section as designated in Clause 13 and on the completion of each section and before opening the same for public traffic the Contractor shall erect at the termination of such section and thereafter maintain a substantial stone pillar with marks cut thereon designating the number of miles from the starting points aforesaid and the number of the section ended thereat.

Lands taken for Railway to be fenced when required.

15. The Contractor shall within six calendar months after notice in that behalf from the Commissioner at his own costs and charges erect fences on such part of the Railway and in such manner as the Commissioner shall require and the Contractor shall thereafter at his own expense maintain such fences but the Contractor shall not be bound to erect in any year a greater length of fencing than the number of miles of Railway constructed in that year.

Plans to be deposited.

16. Before commencing the construction of any section the Contractor shall deposit with the Commissioner a map of the lands intended to be taken for the purposes aforesaid within such section showing the course and direction of the Railway the gradients and curves thereof and prepared on such a scale and in such a manner as the Commissioner shall or may require.

Tolls to be paid.

17. All tolls for the conveyance of passengers animals goods merchandise or other things carried over the Railway and by-laws for the due management thereof shall be subject in all respects to the approval of the Government and such tolls may be demanded and received for all passengers and goods transported upon the Railway and shall be paid to such persons and at such places at such rates per mile or fixed charges between stations and otherwise in such manner and under such regulations as the Contractor may by any by-law direct but in no case shall it be compulsory on the Contractor to charge a less rate of toll than that charged on the Eastern Railway.

Tables of tolls to be exhibited.

18. The Contractor shall from time to time print and exhibit or cause to be exhibited in the office and in all and every of the places where the tolls are to be collected in some conspicuous place there a written or printed or

partly written and partly printed board or paper exhibiting all the tolls payable and particularising the price or sum of money to be charged or taken for the conveyance of any passenger or the carriage of any matter or thing.

19. Every by-law fixing and regulating tolls shall be subject to revision from time to time by the Contractor with the approval of the Government.

Alterations in by-laws.

20. Her Majesty's mails Her Majesty's naval military and volunteer forces militia and all volunteer and artillery ammunition provisions and other stores for their use and all policemen constables and others travelling on Her Majesty's service shall at all times when required by the Postmaster of the Colony by the Commander of the forces or by any person having the superintendence and command of any police force and with the whole resources of the Contractor if required be carried on the Railway at such reduction from the rates for the time being in force on the Railway and under such regulations as the Government and the Contractor may from time to time agree upon.

Carriage of mails military forces &c.

21. The Contractor shall not without the permission of the Government undertake the transmission by telegraph or telephone of messages for the public nor use or allow to be used his telegraphic or telephonic apparatus for any purpose other than the working and management of the Railway.

Contractor not to use telegraphs except for railway purposes.

22. The Government may at any time cause a line or lines of electric telegraph to be constructed along the line of the Railway for the use of the Government and for that purpose may from time to time enter upon and occupy so much of the lands of the Contractor taken under the powers aforesaid as may be necessary for the purpose without making any compensation therefor but making good all damage done and so constructing the said works as not to interfere with the efficient working of the Railway by the Contractor and such line or lines may be used for the purpose of transmitting messages by any system or invention now or at any time hereafter in use but in the event of accident to the telegraphic apparatus of the Contractor the Contractor shall with the consent of the Commissioner be at liberty to use any such line or lines of electric telegraph for the business of the Railway free from charge during such time as the Commissioner shall allow and the Contractor shall be at liberty at any time or times to attach any of the wires of the Contractor to those of the Government wires with the consent of the Commissioner upon such terms as shall be agreed on between the Commissioner and the Contractor.

Power to Government to erect telegraphs.

23. The Railway or any portion of the Railway shall not be opened for the public conveyance of passengers until one month after notice in writing of the intention to open the same has been given by the Contractor to the Commissioner and until 10 days after notice in writing has been given by the Contractor to the Commissioner of the time when the Railway or completed portion of Railway will be in the opinion of the Contractor sufficiently completed for the safe conveyance of passengers and ready for inspection.

Notices of intention to open the Railway.

24. If the Railway or any portion of the Railway be opened without such notice the Contractor shall forfeit to the Government the sum of £50 for every day during which the same continues open until the notices have been duly given and have expired.

Penalty for opening without notice.

Power for  
Commissioner  
to postpone  
opening.

25. The Commissioner upon receiving such notification shall by himself or by a deputy or deputies appointed by him examine and inspect the section of the Railway proposed to be opened and all bridges culverts tunnels road crossings and other works and appliances connected therewith and also all engines and other rolling stock intended to be used thereon and if the Commissioner or his deputy or deputies aforesaid report in writing to the Governor that in his or their opinion the opening of the same would be attended with danger to the public using the same by reason of the incompleteness of the works or permanent way or the insufficiency of the establishment for working the Railway together with the grounds of such opinion the Commissioner with the sanction of the Government and so from time to time as often as the Commissioner or his deputy or deputies as aforesaid after further inspection thereof so reports may order and direct the Contractor to postpone such opening not exceeding one month at any one time until it appears to the Commissioner that such opening may take place without danger to the public. Provided always that subject to the exercise of such powers of postponement if the occasion should arise the Commissioner shall be bound to issue his certificate for the opening of the Railway under Section 26 of "The Railways Act 1878" within fourteen days from the end of the month or ten days mentioned in Clause 23 hereof whichever period shall last terminate.

Penalty for  
opening con-  
trary to direc-  
tion of Com-  
missioner.

26. If the Railway or any portion thereof be open contrary to such order or direction of the Commissioner the Contractor shall forfeit to the Government the sum of £50 for every day during which the same continues open contrary to such order or direction.

Copy of report  
of Commis-  
sioner to be  
supplied to the  
Contractor.

27. No such order shall be binding upon the Contractor unless therewith is delivered to the Contractor a copy of the report on which the order is founded.

Contractor  
to maintain  
Railway and  
Rolling Stock.

28. The Contractor shall at all times after the opening of the Railway and the several sections thereof keep the same and all the bridges level crossings stations permanent way and other works thereon or connected therewith and the rolling stock used thereon in good and proper repair and from time to time renew the same to the satisfaction of the Commissioner.

Power for the  
Commissioner  
to require  
defects &c.  
to be  
remedied.

29. The Commissioner whenever he receives information to the effect that any bridge level crossing culvert viaduct tunnel or any other portion of the Railway or any engine car or carriage used or for use on the Railway is dangerous to the public using the same from want of repair insufficient or erroneous construction or from any other cause or whenever circumstances may arise which in his opinion render it expedient may himself examine and inspect or direct any deputy or deputies as aforesaid to examine and inspect the Railway or any portion thereof or the works connected therewith or the engines and other rolling stock in use thereon or any portion thereof and upon such inspection or upon the report of such deputy or deputies may condemn the Railway or any portion thereof or any of the rolling stock or other appliances used thereon and with the approval of the Government may require any change or alteration therein or in any part thereof or the substitution of any new bridge culvert viaduct or tunnel or of any material for the Railway and thereupon the Contractor shall after notice thereof in writing signed by the Commissioner proceed to make good or

remedy the defects in the said portions of the Railway or in the locomotive car or carriage which have been so condemned or shall make such change alteration or substitution hereinbefore referred to as has been required in manner aforesaid by the Commissioner.

30. If in the opinion of the Commissioner it is dangerous for trains or vehicles to pass over the Railway or any portions thereof until alterations substitutions or repairs have been made thereon or that any particular car carriage or locomotive should be run or used the Commissioner may forthwith forbid the running of any train or vehicle over the Railway or portion of Railway or the running or using of any such car carriage or locomotive by delivering or causing to be delivered to the Contractor or to any officer having the management or control of the running of trains on the Railway a notice in writing to that effect with his reasons therefor in which he shall distinctly point out the defects or the nature of the danger to be apprehended.

And in the meantime to stop the running of trains.

31. The Commissioner shall forthwith report all proceedings taken permitted or suffered by him under Clauses 29 and 30 to the Government who shall with all speed either confirm modify or disallow the act or order of the Commissioner and such confirmation modification or disallowance shall be duly notified to the Contractor and the Commissioner on receipt of such confirmation modification or disallowance shall forthwith duly notify the same to the Contractor.

Commissioner to report to the Government.

32. The Commissioner or any deputy or deputies so appointed as aforesaid to inspect the Railway or works may at all reasonable times upon producing his or their authority if required enter upon and examine the Railway and the stations fences or gates roads crossings cattle guards works and buildings and the engines cars and carriages belonging thereto.

Power for Commissioner to enter for purpose of inspection.

33. The Contractor his agents and officers shall afford to the Commissioner and his deputy or deputies such information as may be within their knowledge and power in all matters inquired into by them and shall submit to the Commissioner or such deputy or deputies all plans specifications drawings and documents relating to the construction repair or state of repair of the Railway or any portion thereof whether a bridge culvert or other part.

Information to be given to Commissioner

34. The Commissioner and any such deputy or deputies shall have the right whilst engaged in the business of such inspection to travel without charge on any of the trains running on the Railway and to use without charge the telegraph wires and machinery in the offices of or under the control of the Contractor.

Commissioner &c. to be conveyed without charge.

35. The operators or officers employed in the telegraph office of or under the control of the Contractor shall without unnecessary delay obey all reasonable orders of the Commissioner or any of such deputy or deputies for transmitting messages.

And have use of telegraphs.

36. The authority of any such deputy or deputies as aforesaid shall be sufficiently evidenced by instructions in writing signed by the Commissioner.

Evidence of authority of deputies.

Notice of accidents to be given to the Commissioner.

37. The Contractor shall as soon as possible after the occurrence upon the Railway of any accident attended with serious personal injury to any person using the same or whereby the line or rolling stock or any bridge culvert viaduct or tunnel on or of the Railway has been broken or so damaged as to be impassable or unfit for immediate use give notice thereof to the Commissioner and if the Contractor wilfully omits to give such notice the Contractor shall forfeit to the Government the sum of £20 for every day during which such wilful omission to give the same continues.

Provisions of this contract not to relieve the Contractor from liability.

38. No inspection had under these presents nor anything in these presents contained or done or ordered or omitted to be done or ordered under or by virtue of the provisions of these presents shall relieve or be construed to relieve the Contractor of or from any liability or responsibility resting on him by law either towards the Government or towards any person.

Line to be opened in sections as soon as complete and continuously worked.

39. On the expiration of all notices by the Contractor given by him under Clause 23 and as soon as any section of the Railway shall be completed and certified to be fit for traffic as aforesaid the Contractor shall forthwith proceed to open and shall continuously thereafter except when prevented by causes which shall be certified by the Commissioner to be beyond the Contractor's control keep open and work the same for public and general traffic and shall run thereon in each direction at least one train per day at an average speed of not less than 20 miles an hour. Provided always that the Commissioner may at the request of the Contractor authorise the Contractor to run trains less frequently than once per day but not less than three times per week and such authority shall be in writing and shall not continue in force for a longer period than three months and may be revoked by the Commissioner at any time. And the Contractor shall if required by the Commissioner in writing so to do increase the number of trains but so that the number shall not exceed twelve trains per week and in the event of the Contractor failing or refusing so to increase the number of trains he shall forfeit and pay to the Government the sum of £20 for every day during which such failure or refusal shall continue.

Speed of trains.

Powers to Government and others to effect junctions with Railway.

40. The Government or any Company authorised by Act of the Legislative Council may at any time hereafter construct any authorised branch or main lines to join the Railway and the Contractor shall permit all necessary junctions and works to be made and executed on his Railway necessary for forming such connection.

Government to have running powers over Railway and works.

41. The Government and all Companies and persons lawfully using any of the Railways in the Colony or any such branch or main line as aforesaid may upon terms and conditions to be agreed upon between the Government and the Contractor or in case of difference upon such terms and conditions as may be settled by arbitration in manner hereinafter provided run over and use with their engines and carriages of every description and with their clerks officers and servants the Railway to be constructed under this Contract together with the stations booking offices warehouses quays landing stages piers jetties sidings passing places and other works and conveniences connected therewith respectively.

Contractor to forward traffic.

42. The Contractor will subject to the due payment to him of the proper tolls forthwith and without unreasonable delay forward over the Rail-

way all passengers goods or merchandise which shall have been carried or be intended to be carried over the Government Railways or any parts thereof or any other line for the time being in connection with the Railway.

43. The Contractor shall on the requisition of the Commissioner make such arrangements with the Commissioner and every Company for the time being owning or working any Railway in the Colony or elsewhere in connection with the Railway or with the Government Railways for the regulation and interchange of traffic passing to and from the said respective Railways and for the working of the traffic over the said Railways respectively and for the division and apportionment of tolls rates and charges in respect of such traffic and generally in relation to the management and working of the said Railways or any of them or any part thereof so that the Railway may be worked for the greatest convenience of the public and in case the Commissioner and Contractor shall be unable to agree as to the terms of such arrangements such terms shall be settled by arbitration in the manner hereinafter mentioned.

Contractor to make arrangements for interchange of traffic.

44. The Contractor shall according to his powers afford all reasonable facilities to the Commissioner in respect of the Government Railways and to the Company or persons owning any other Railway for the receiving and forwarding and delivering of traffic upon and from the several Railways belonging to or worked by the Commissioner or such other Companies and for the return of carriages trucks and other vehicles and the Contractor shall not give or continue any preference or advantage to or in favor of any particular Company or person or any particular description of traffic in any respect whatsoever nor shall the Contractor subject the Commissioner or any particular Company or person or any particular description of traffic to any prejudice or disadvantage in any respect whatsoever and the Contractor shall afford all reasonable facilities for the receiving and forwarding by his Railway all the traffic arising by any other railway in connection therewith without any unreasonable delay and without any preference or advantage or prejudice or disadvantage and so that no obstruction may be offered in the using of such Railway as a continuous line of communication and so that all reasonable accommodation may at all times by the means aforesaid be mutually afforded by and to the Commissioner and Companies working railways joining or connected with each other and any agreement made by the Contractor contrary to the foregoing provisions shall be unlawful null and void.

And afford facilities for such interchange without any preference.

45. The Contractor will procure the introduction into the Colony from Europe within seven years from the date of this Contract of 5000 adults of European extraction. Children of 12 years of age to count as an adult under that age as half an adult that is two children under 12 being reckoned as one adult. The Immigrants to be selected and approved in such a manner as may be mutually agreed upon by the Government and the Contractor but the number of Immigrants to be introduced in any one year to be specially arranged between the Government and the Contractor.

Contractor to introduce Immigrants.

46. The Government will at the expiration of three calendar months from the arrival in the Colony of any such Immigrants grant to the Contractor or his nominees in fee simple for each such statute adult 50 acres of land to be selected as next hereinafter provided in blocks of not less than 10,000 acres each in extent to be held in accordance with and in the form prescribed by the Land Regulations of the Colony.

Grants of land in consideration of such introduction.

How such land shall be selected.

47. The blocks of land to be selected as aforesaid shall be selected out of the residue of the lands within the areas hereinafter defined in Clause 50 remaining after selection of lands to be granted to the Contractor as a subsidy for Railway construction maintenance and equipment provided that no such selection shall be made in advance of the line of Railway at the time being completed and open for traffic and that no such selections be taken out of the frontage blocks reserved for the Government in accordance with sub-sections of Clause 50.

Boundaries of blocks of such lands.

48. The boundaries of the blocks so selected shall (except where they shall be bounded by land taken for the purpose of the construction of the Railway) be at right angles with and in the direction of the meridian respectively.

Grants of lands to the Contractor as a subsidy in consideration of this Contract.

49. In consideration of the premises the Government agrees to grant in fee simple to the Contractor by Crown Grants in the form prescribed by the Land Regulations of the Colony a subsidy in land for and in respect of each section or deviated section as hereinbefore defined at the rate of 12,000 acres for every mile of the Railway which shall be duly completed and open for traffic in accordance with the provisions of these presents and a proportionate quantity for and in respect of such length of line less than 20 miles which shall be over from the end of the last of such sections to the actual completion of the line.

How and where such lands shall be selected.

50. The lands to be so granted to the Contractor as a subsidy shall be selected by the Contractor within 12 months from the opening of each such section subject to the following conditions and provisions—

- (a)—Each quantity to be granted in respect of each section shall be selected within an area bounded on two sides by lines drawn on each side of and parallel to the Railway at a distance not exceeding 40 miles therefrom and on the north and south by lines produced east and west through the termini of the sections which shall have been duly completed and opened for traffic but not in advance of the same.
- (b)—Each such quantity shall be selected in one block or in blocks of not less than 12,000 acres each in extent.
- (c)—The boundaries of such block or blocks (except so far if at all as they shall be bounded by the lands taken for the Railway) shall be in the direction of and at right angles to the meridian.
- (d)—Half the frontage to the Railway along each section either wholly on one side or partly on one side and partly on the other side of the Railway shall be reserved to the Government and in all cases the frontage blocks so reserved shall have a frontage of not less than five miles in the direction of the meridian and a depth of not less than fifteen miles.
- (e)—The Contractor shall be entitled upon the commencement of the construction of the Railway to select one-half of the lands to be granted to him upon the completion and opening for traffic as aforesaid of the first sections at either end of the Railway and to occupy such lands so selected as aforesaid for the purpose of

settling the immigrants to be introduced during the construction of the first sections as aforesaid under annual license and without payment until the time when he shall be entitled to receive grants of the said lands.

(f.)—The Contractor shall at his own expense under the direction of the Surveyor General of the Colony and by surveyors duly licensed by him make all such surveys plans and diagrams as the said Surveyor General may consider necessary in accordance with the system of survey now or hereafter in force for the Government Surveys of the Colony for ascertaining and defining the boundaries of the land to be granted and for all other purposes required by the provisions of this agreement.

The maps plans diagrams field-books and all other information required by the said Surveyor General shall be executed in a manner approved by him and be kept by him as official records in the same manner as the Government Surveys of the Colony.

In making such surveys the Surveyor-General shall be satisfied that all necessary reservations for roads and other public purposes including reserves for the protection of the Roman Catholic Mission Establishments at New Norcia and Marah have been sufficiently provided for.

51. Whenever the Contractor shall pay compensation for lands taken in town sites for the purposes of the Railway he shall be entitled to select lands at the rate of one acre for every 10s. so paid by him. Such selection shall be confined to the area from which the Contractor has to select lands as a subsidy for the line and in blocks of not less than 5000 acres unless a smaller quantity of land will cover such compensation in which latter case the land shall be taken in one block. If a fractional part remain over and above any one or more block or blocks of 5000 acres such fractional part may be at the option of the Contractor taken in a separate block. Provided that no lands to be selected by the Contractor in respect of compensation shall be taken from the frontage blocks reserved to the Government on each side of the Railway.

Selection of lands by Contractor in lieu of compensation paid by him for lands taken in town sites.

52. On the completion and opening as aforesaid of each section and as soon as the Contractor shall have selected the lands to be granted to him in respect thereof the Government will issue to the Contractor land certificates or deeds of grant of one moiety of the lands so selected the portions to be comprised in such certificates or grants to be approved of by the Government but so as to give if required a reasonably fair proportion of such frontage to the Railway as the whole of the lands so selected shall have.

Land certificates to be issued as to one moiety on the opening of each section.

53. On the completion and opening of the whole of the Railway within the time limited for that purpose as aforesaid the Government will issue to the Contractor like certificates or deeds of grant for the remaining moiety of the lands so selected.

And as to the rest on completion of whole line.

54. If the Railway shall not be completed and opened within the time limited in that behalf the said remaining moiety of the lands to which the Contractor would otherwise have become entitled as aforesaid shall be absolutely forfeited to the Government unless such non-completion shall arise from some inevitable cause or from some act of the Government.

If Railway not opened within agreed time certain lands to be forfeited.

Government not to grant or sell lands during time limited for construction of Railway.

55. The Government will not during the time hereby limited for the construction and opening of the Railway make any grants or sales of land within any of the areas aforesaid provided always that this provision shall not limit or affect any rights of lessees or others existing at the date of the publication in the *Government Gazette* of the notice reserving the said land for the purposes of the Railway and which rights the Government may be advised are legal or equitable and provided also that this Contract shall still remain in force.

Contractor to compensate lessees for improvements.

56. In case any part of the land selected as aforesaid shall be in the occupation of any lessees or licensees from the Government the Contractor shall pay to them fair compensation for all improvements made by them or their predecessors upon their holdings such compensation to be assessed by Arbitration in case of difference.

Contractor to have power to declare town sites.

57. The Contractor shall have the privilege of declaring town sites and villages within the areas aforesaid upon the lands selected by him as aforesaid.

Penalties for breach of Clause 39.

58. If the Contractor shall fail to comply with any of the provisions of Clause 39 hereof it shall be lawful for the Government to enter upon seize and take possession of and use the said line and all the rolling stock machinery engines and plant of the Contractor and to use and work the same and appropriate the receipts and profits arising therefrom. And the Contractor shall pay to the Government all expenses incurred for the maintenance and repair of the said line rolling stock machinery engines and plant during such time as the Government shall be in possession as aforesaid. And the Contractor shall be subject to and shall pay to the Government a daily fine of £100 so long as the Government shall continue in possession as aforesaid.

Guarantee fund to be provided by Contractor.

59. As a security for the due performance of this Contract the Contractor shall and will on the signing of this Contract pay to the Government the sum of £10,000 which sum together with the yearly interest or income thereof shall at the option of the Government be invested at the risk of the Contractor by the Government in such securities as the Contractor may select and the Government approve. This sum and all accumulations thereof or the securities representing the same together with all interests and dividends thereon shall remain in the hands of the Government as a guarantee fund subject to be applied as hereinafter mentioned.

Provision for incorporation of Company.

60. The Government shall promote at their own cost the passing of any necessary Act or Acts to confirm these presents and either to confer upon the Contractor such powers necessary or proper for giving effect to these presents and not being inconsistent therewith as the Legislative Council may approve or at the request of the Contractor to provide for the incorporation of the Contractor and all such other persons and corporations as shall become shareholders in the Company to be thereby incorporated into a body corporate with perpetual succession and a common seal with such capital and borrowing powers and all such powers as last aforesaid for the purpose of acquiring from the Contractor the benefit of these presents subject to all the provisions and stipulations herein contained and on the part of the Contractor to be observed and performed. The Act shall in case of such company being so incorporated as aforesaid provide for the adoption by the Company of this Contract and for the same becoming binding upon the Company and taking effect in

Act to provide for adoption of construction Contract.

the same manner and to the same extent as if the same had been executed by the Company as a party thereto in lieu of the Contractor.

61. The Contractor may assign all or any of the powers rights and privileges conferred upon him by these presents to a Syndicate who may in their turn assign to a Syndicate or Company or other persons all the powers rights and privileges so assigned and all matters arising out of or in connection with any such assignment as aforesaid. The Government shall have the same rights and remedies against such Syndicate or Syndicates or Company or other persons or any or either of them and such Syndicate or Syndicates or Company or other persons or person or any or either or any of them shall have the same rights and remedies against the Government as they or it would respectively have had if such Syndicate or Syndicates or Company or other persons instead of the Contractor had been parties to these presents and these presents shall in such case be so far as necessary read and construed as if the words the Syndicate or Syndicates or Company or other persons (meaning thereby such a Syndicate or Syndicates or Company or other persons as aforesaid) according as the case may require were substituted therein for the words "The Contractor." Provided always that whenever any such assignment as aforesaid shall be made notice thereof in writing shall be forthwith given to the Government by the Syndicate Company or other person or persons to whom the said powers rights and privileges shall have been assigned.

Power to assign contract to Syndicate Company or other persons.

62. The cost of the surveys and of the preparation of all plans if any necessary for the passing of the Act shall be borne by the Contractor.

Costs of Surveys and plans to be paid by Contractor.

63. If the survey for laying out the Railway shall not be *boná fide* commenced within one year from the date of this Contract or if the actual construction of the Railway shall not be *boná fide* commenced within two years from the same date or if 100 miles at least of the Railway shall not be completed equipped and fit for public traffic and opened within four years from the same date or if 50 miles at least of the Railway shall not be further completed equipped fit and opened as aforesaid in each and every subsequent year or if the Contractor shall not introduce immigrants into the Colony according to the terms of the Contract or shall fail to comply with any other of the conditions or stipulations herein contained it shall be lawful for the Government if they shall think fit to rescind or annul this Contract and thereupon the guarantee fund shall be transferred to and become the absolute property of the Government. Provided always that the rescission or annulment of the Contract shall not take away or affect any right claim or demand which the Government may have against the Contractor under the Contract or on account of any breach thereof by the Contractor.

Rights of the Government on breach of the Contract by the Contractor.

64. If the Contractor or the Company incorporated as aforesaid shall duly perform this Contract then upon the expiration of three years from the opening of the whole Railway to be constructed under such Contract the guarantee fund shall be transferred to the Contractor or as he shall direct. Provided always that the Government may from time to time pay and deduct out of the said fund any sum or sums of money which the Contractor may have become liable to pay by way of fine penalty or otherwise as herein mentioned.

Guarantee fund to be transferred to contractor three years after opening of Railway.

Dividends to be paid to Government.

65. In the meantime and until the guarantee fund shall be transferred as aforesaid all interest and dividends thereon and on the accumulations thereof shall from time to time be paid to the Government and be added to and form part of the guarantee fund and be held by the Government upon the same trusts as such guarantee fund is held by them under these presents.

As to service of notice on Contractor and Company when incorporated.

66. The Contractor and such Company as aforesaid if incorporated shall until the final completion of this Contract appoint by notice to the Crown Agents and the Governor respectively an Office in the City of London or Westminster and also in Perth in the Colony where they may be served with notices under this Contract. And all notices under this Contract shall be deemed duly served if sent by post in the usual way addressed to the Contractor or the Company as the case may be at one of such offices. All notices to be signed by the Crown Agents shall be deemed sufficiently signed if signed by any one of them and all notices to be signed by the Government shall be deemed sufficiently signed if signed by the Commissioner.

Railway not to be exempt from provisions of any general Act relating to Railways.

67. Nothing herein or in the Act for the incorporation of any such Company as aforesaid shall be deemed or construed to exempt the Railways to be constructed under these presents or the Contractor or such Company from the provisions of any general Act relating to Railways now in force or which may hereafter be passed by the Legislative Council of the Colony but nothing in such Acts shall in any manner operate against the Contractor or his Syndicate or Company so as to limit the advantages granted to him under the Contract.

Completion of Geraldton-Greenough Railway.

68. The Government shall within two years from the date hereof construct the Geraldton-Greenough Railway.

Grant of land to Contractor.

69. Immediately each and every section of the line shall be completed equipped in working order and opened for traffic the lands taken for the purpose of the construction of the Railway under Clause 3 of these presents shall subject to the provisions of Clause 58 vest in and be granted to the Contractor in fee simple.

"Crown Agents" interpretation of.

70. The expression the "Crown Agents" as used in this Contract includes the Crown Agents for the Colonies for the time being.

"Contractor" interpretation of.

71. The expression "the Contractor" whenever used in these presents shall mean and include the person hereinbefore named as the Contractor and his heirs and assigns. And after assigning his rights and liabilities hereunder the assignee shall for all purposes stand in the place of the assignor.

Provisions for arbitration.

72. In case and so often as any dispute or difference shall arise between the Government or the Crown Agents or the Commissioner or any of his Agents and the Contractor concerning or relating to the Railway and works or any of them or any part thereof or as to the course and direction of the Railway or any part thereof or any covenant engagement matter or thing herein contained or the construction thereof except as to any matter for which other provision is hereinbefore made the subject of every such dispute or difference shall in every case on the demand in writing of either party be referred to the arbitration and award of an umpire if the parties can agree to an umpire and in case they cannot so agree then of three arbitrators one to be appointed by the Governor another by the Contractor and the third by the

two arbitrators so appointed. The decision of such umpire or arbitrators or of any two of such arbitrators as the case may be shall be final and without appeal and binding both upon the Government and Contractor. If either party to any such dispute or difference make default in appointing an arbitrator within 14 days after the other party has given him or them notice to appoint the same such other party may appoint an arbitrator to act in the place of an arbitrator who ought to have been appointed by the defaulting party and if from any cause whatever a third arbitrator is not appointed when required an appointment shall be made in manner directed by and in every case the arbitration shall except as herein otherwise directed be proceeded with in manner provided by the Common Law Procedure Acts in that behalf.

73. The arbitrators and umpire shall have full power to make if they or he may think fit several awards instead of one award and every such award though not on the whole matter shall be final so far as it extends and as if the matter awarded on were the whole matter referred.

Arbitrators may make partial awards.

74. The arbitrators and umpire shall have full power to proceed in the absence of both or either of the parties after giving to both parties such notice as the arbitrators or umpire may think sufficient of their or his intention to proceed.

May proceed *ex parte*.

75. The arbitrators and umpire shall have full power to inspect the accounts of both parties and examine on oath or affirmation or on statutory declaration in lieu of oath the officers agents servants and witnesses of the parties respectively.

May inspect accounts and examine on Oath.

76. The costs of the reference and the awards shall be in the discretion of the arbitrators and umpire.

And provide for costs.

77. Nothing herein contained shall in any manner affect the rights of Her Majesty or any person Company or Corporation except such only as are herein expressly mentioned.

Saving rights of the Crown &c.

78. The Governor shall not nor shall any member or officer of the Government or any of the Crown Agents be in anywise personally bound for the acts and obligations of the Government under these presents or answerable for any default or omission in the observance performance or fulfilment of the acts matters or things which are hereby made obligatory on the Government.

The Governor Crown Agents &c. not to be personally liable.

79. The Government shall if requested thereto by the Contractor exercise in respect of lands required for the construction of the Railway under this Contract all the powers of entry and resumption reserved to the Crown by the Deeds of Grant or other Deeds whereby the said lands have been alienated and the lands so resumed shall be available for the purposes of the Railway.

Government at request of Contractor to exercise powers of entry and resumption of land.

80. The Contractor will on demand pay to the Government the sum of £50 towards the costs of preparing and printing this Contract.

Contractor to contribute towards costs of preparing and printing Contract.

81. If either the Government or the Contractor shall after the completion of the railway desire the laying down of a second line of rails upon the Eastern Railway between Guildford and Fremantle notice in writing to the other party shall be given of such desire and the construction thereof shall

Construction of second line between Guildford and Fremantle on Eastern Railway.

be commenced by the Contractor within three months and be completed within eighteen months after such notice upon the following terms that is to say:—The said line shall be constructed by the Contractor at his own expense according to plans and specifications approved by the Commissioner and upon completion of the said line the Government shall pay to the Contractor the actual cost of all rails sleepers bolts and plates required and used in and for such construction. The said line shall be the property of and worked by the Government.

Contractor to  
furnish yearly  
returns.

82. The Contractor shall once in every year at least prepare or cause to be prepared an account in such form or manner as may be prescribed by the Commissioner showing amounts realised from all tolls charges and other payments and also of all outgoings debts expenses and liabilities incurred by or on behalf of the Contractor for the past year under the several and distinct heads of receipts and expenditure together with an account showing the number of miles run by the trains the number of passengers and quantity of goods carried the number of carriages trucks engines and other rolling stock used by the Contractor in working the line and any other information which the Commissioner may require. And the Contractor shall transmit to the Commissioner three copies of such accounts on or before the thirty-first day of January in each year and in default shall forfeit and pay to the Government a sum or penalty of Ten Pounds for every day during which the account is withheld from the Commissioner.

**In Witness** whereof the Governor and the Contractor have hereunto set their hands and seals the day and year first before written.

Signed, sealed, and delivered by the  
said GOVERNOR in the presence  
of } F. NAPIER BROOME, (L.S.)  
Governor.

SEP. BURT, Solicitor, Perth.

GEORGE LEAKE, Crown Solicitor, Perth.

Signed, sealed, and delivered by the  
said JOHN WADDINGTON by his  
Attorney RICHARD PRICE-WIL- } JOHN WADDINGTON,  
LIAMS in the presence of } By His Attorney, (L.S.)  
R. PRICE-WILLIAMS.

SEP. BURT, Solicitor, Perth.

GEORGE LEAKE, Crown Solicitor, Perth.