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ENTERED
Office of Proceedings
January 31, 2020
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January 31, 2020

Ms. Cynthia T. Brown
Chief of the Section of Administration, Office of Proceedings
Surface Transportation Board
395 E Street, S.W.
Washington, D.C. 20423-0001

Re: Docket No. FD 36383, *3i RR Holdings GP LLC, 3i Holdings Partnership L.P., 3i RR LLC, Regional Rail Holdings, LLC, and Regional Rail, LLC—Control Exemption—Carolina Coastal Railway, Inc.*

Dear Ms. Brown:

Enclosed for efilings is a Notice of Exemption under 49 CFR 1180.2(d). A filing fee of \$1,500.00 has been paid through Pay.gov.

Thank you for your assistance. If you have any questions, please contact me.

Sincerely yours,

/s/ *Louis E. Gitomer*

Louis E. Gitomer
Attorney for 3i RR Holdings GP LLC,
3i Holdings Partnership L.P., 3i RR LLC, Regional
Rail Holdings, LLC, and Regional Rail, LLC

Enclosure

FEE RECEIVED
January 31, 2020
SURFACE
TRANSPORTATION BOARD

FILED
January 31, 2020
SURFACE
TRANSPORTATION BOARD

BEFORE THE
SURFACE TRANSPORTATION BOARD

Docket No. FD 36383

3i RR HOLDINGS GP LLC, 3i HOLDINGS PARTNERSHIP L.P., 3i RR LLC,
REGIONAL RAIL HOLDINGS, LLC, AND REGIONAL RAIL, LLC
-CONTROL EXEMPTION-
CAROLINA COASTAL RAILWAY, INC.

VERIFIED NOTICE OF EXEMPTION

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Attorney for 3i RR Holdings GP LLC,
3i Holdings Partnership L.P., 3i RR LLC,
Regional Rail Holdings, LLC, and Regional
Rail, LLC

Dated: January 31, 2020

BEFORE THE
SURFACE TRANSPORTATION BOARD

Docket No. FD 36383

3i RR HOLDINGS GP LLC, 3i HOLDINGS PARTNERSHIP L.P., 3i RR LLC,
REGIONAL RAIL HOLDINGS, LLC, AND REGIONAL RAIL, LLC
—CONTROL EXEMPTION—
CAROLINA COASTAL RAILWAY, INC.

VERIFIED NOTICE OF EXEMPTION

3i RR Holdings GP LLC, 3i Holdings Partnership L.P., 3i RR LLC, and Regional Rail Holdings, LLC (collectively “3i RR”), and Regional Rail, LLC (“Regional Rail”), all noncarriers, pursuant to 49 C.F.R. §§1180.2(d)(2) and 1180.4(g), file this Verified Notice of Exemption with the Surface Transportation Board (the “Board”) seeking exemption from the prior approval requirements of 49 U.S.C. §§11323-11325, to acquire the stock and control of the Carolina Coastal Railway, Inc. (“CLNA”) located in the States of North Carolina and South Carolina.

a. 1180.6(a)(1)(i). A brief summary of the proposed transaction, the name of applicants, their business address, telephone number, and the name of the counsel to whom questions regarding the transaction can be addressed.

Pursuant to the Stock Purchase Agreement dated as of January 31, 2020, Regional Rail has agreed to acquire from Douglas S. Golden 100% of the stock of CLNA, and thereby acquire direct control of CLNA (the “Proposed Transaction”). The 3i RR entities control Regional Rail and will therefore acquire indirect control of CLNA.

3i RR Holdings GP LLC controls 3i Holdings Partnership L.P., which in turn controls 3i RR, which in turn controls Regional Rail Holdings, LLC. Regional Rail Holdings, LLC

(“Holdings”) controls Regional Rail, LLC. Regional Rail is a non-carrier holding company that directly controls the following six class III railroads: (1) East Penn Railroad, LLC (“ESPN”), which operates in Delaware and Pennsylvania; (2) Middletown & New Jersey Railroad, LLC (“MNJ”), which operates in New York; (3) Tyburn Railroad LLC (“Tyburn”), which operates in Pennsylvania¹; (4) the Florida Central Railroad LLC (“Central”) which operates in Florida; (5) Florida Midland Railroad Company, Inc. (“Midland”) which operates in Florida; and (6) Florida Northern Railroad Company, Inc. (“Northern”) which operates in Florida² (all six railroads are collectively referred to as the “Subsidiary Railroads”).³ As a result of the Proposed Transaction, the instant Notice of Exemption seeks exemption for 3i RR to acquire indirect control of and for Regional Rail to acquire direct control of the CLNA.

CLNA operates in the states of North Carolina and South Carolina, generally between: (1) Chocowinity, NC and Raleigh, NC; (2) Phosphate Junction, NC and Plymouth, NC; (3) Rocky Mount, NC and Spring Hope, NC; (4) Belhaven, NC and Pinetown, NC; (5) Morehead City, NC and Radio Island, NC; and (6) Blacksburg, SC and Kings Creek, SC.

CLNA does not connect with the Subsidiary Railroads, the acquisition of control of the CLNA is not intended to connect with any railroads in the corporate family of 3i RR, and a Class I carrier is not involved. The proposed transaction meets the requirements of 49 C.F.R.

§1180.2(d)(2).

¹ ESPN, MNJ, and Tyburn are referred to as the “Northeast Railroads.”

² Central, Midland and Northern are referred to as the “Florida Railroads.”

³ Holdings acquired control of the Northeast Railroads pursuant to *Regional Rail Holdings, LLC-Acquisition of Control Exemption-Regional Rail, LLC*, Docket No. FD 35945 (served August 5, 2015). Direct control of Holdings and indirect control of the Northeast Railroads was acquired pursuant to *3i RR Holdings GP LLC, 3i Holdings Partnership L.P., and 3i RR LLC—Control Exemption—Regional Rail Holdings, LLC*, Docket No. FD 36289 (served April 19, 2019). Control of the Florida Railroads was acquired pursuant to *3i RR Holdings GP LLC, 3i Holdings Partnership L.P., and 3i RR LLC, and Regional Rail LLC-Control Exemption-Florida Central Railroad LLC, Florida Midland Railroad Company, Inc., and Florida Northern Railroad Company, Inc.*, Docket No. FD 36365 (served November 22, 2019).

3i RR and Regional Rail are located at 505 South Broad Street, Kennett Square, PA 19348, (610) 925-0131.

Counsel to whom questions concerning the transaction can be addressed is:

Louis E. Gitomer, Esq.
Law Offices of Louis E. Gitomer LLC
600 Baltimore Avenue, Suite 301
Towson, MD 21204
(410) 296-2250
Lou@lgraillaw.com

b. 1180.6(a)(1)(ii). The proposed time schedule for consummation of the proposed transaction.

3i RR and Regional Rail intend to acquire control of the CLNA on or after March 1, 2020.

c. 1180.6(a)(1)(iii). The purpose sought to be accomplished by the proposed transaction, e.g., operating economies, eliminating excess facilities, improving service, or improving the financial viability of the applicants.

3i RR and Regional Rail intend to implement operating economies where feasible without disrupting service to shippers and to use its financial resources to improve the financial viability of CLNA.

d. 1180.6(a)(5). A list of the State(s) in which any part of the property of each applicant carrier is situated.

CLNA is a Class III railroad that operates in North Carolina and South Carolina.

Central is a Class III railroad that operates in Florida.

Midland is a Class III railroad that operates in Florida.

Northern is a Class III railroad that operates in Florida.

ESPN is a Class III railroad that operates in Pennsylvania and Delaware.

MNJ is a Class III railroad that operates in New York.

Tyburn is a Class III railroad that operates in Pennsylvania.

e. 1180.6(a)(6). Map (Exhibit B). Submit a general or key map indicating clearly, in separate colors or otherwise, the line(s) of applicant carriers in their true relations to each other, short line connections, other rail lines in the territory, and the principal geographic points in the region traversed. If a geographically limited transaction is proposed, a map detailing the transaction should also be included. In addition to the map accompanying each application, 20 unbound copies of the map shall be filed with the Board.

See Exhibit B.

f. 1180.6(a)(7)(ii). Agreement (Exhibit A). Submit a copy of any contract or other written instrument entered into, or proposed to be entered into, pertaining to the proposed transaction.

A redacted copy of the Stock Purchase Agreement dated as of January 31, 2020 is attached hereto in Exhibit A. A non-redacted Confidential copy of the Stock Purchase Agreement is being concurrently been filed under seal along with a Motion for Protective Order.

g. Labor Protection.

CLNA, Central, Midland, Northern, ESPN, MNJ, and Tyburn are all class III railroads. As such, under 49 U.S.C. §11326(c), labor protection does not apply to this transaction.

h. Interchange Commitment.

3i RR and Regional Rail certify that the Proposed Transaction will not create a provision or agreement that may limit future interchange with a third-party connecting carrier.

i. Environmental and Historical Documentation.

This transaction qualifies for classification under 49 C.F.R. §§1105.6(c)(1)(i) and 1105.8(b)(3), and thus neither an Environmental Report nor a Historic Report is required to be filed.

Respectfully submitted,

/s/ *Louis E. Gitomer*

Louis E. Gitomer, Esq.
Law Offices of Louis E. Gitomer LLC
600 Baltimore Avenue, Suite 301
Towson, MD 21204
(410) 296-2250
Lou@lgrailaw.com

Attorney for 3i RR Holdings GP LLC,
3i Holdings Partnership L.P., 3i RR LLC,
and Regional Rail Holdings, LLC

Dated: January 31, 2020

VERIFICATION

I, Benjamin Krause, Partner of 3i RR LLC, verify under penalty of perjury that the foregoing is true and correct. Further, I certify that I am qualified and authorized to file the foregoing document.

Executed on January 31, 2020.

A handwritten signature in blue ink, appearing to be 'B Krause', with a long horizontal line extending to the right.

Benjamin Krause

CERTIFICATE OF SERVICE

I hereby certify that I have caused the Verified Notice of Exemption in Docket No. FD 36383, *3i RR Holdings GP LLC, 3i Holdings Partnership L.P., 3i RR LLC, Regional Rail Holdings LLC, and Regional Rail, LLC—Control Exemption— Carolina Coastal Railway, Inc.*, to be served by first class mail, postage pre-paid on the Secretary of the United States Department of Transportation, the Attorney General of the United States, the Federal Trade Commission and on the Governor, Public Service Commission, and Department of Transportation of the State of North Carolina and South Carolina.

/s/ *Louis E. Gitomer*

Louis E. Gitomer
January 31, 2020

**EXHIBIT A-AGREEMENT
(REDACTED)**

STOCK PURCHASE AGREEMENT

by and between

DOUGLAS GOLDEN

and

REGIONAL RAIL, LLC

Dated as of January 31, 2020

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Schedule A

Net Working Capital Methodology (Illustrative Example
As Of January 31, 2019)

STOCK PURCHASE AGREEMENT

STOCK PURCHASE AGREEMENT, dated as of January 31, 2020 (this “Agreement”), by and between Douglas Golden, an individual (the “Seller”), and Regional Rail, LLC, a Delaware limited liability company (the “Buyer”).

W I T N E S S E T H:

WHEREAS, Seller owns 5,000 shares of common stock, par value \$1.00 per share (the “Shares”), of Carolina Coastal Railway, Inc., a Virginia corporation (the “Company”), which is the entire issued and outstanding share capital of the Company;

WHEREAS, the Company is engaged in the business of operating short line railroads and distribution and transportation services (the “Business”);

WHEREAS, the Buyer desires to purchase from the Seller, and the Seller desires to sell to the Buyer (or its designee), all of the Shares, all in accordance with and subject to the terms and conditions set forth in this Agreement; and

WHEREAS, a portion of the purchase price payable by Buyer to Seller shall be placed in escrow by Buyer, the release of which shall be contingent upon certain events and conditions, all as set forth in this Agreement and the Escrow Agreement (as defined herein).

NOW, THEREFORE, in consideration of the foregoing and the respective covenants and agreements hereinafter contained, the parties hereby agree as follows:

ARTICLE 1. DEFINITIONS.

As used in this Agreement, the following terms shall have the following meanings:

“Action” shall mean any claim, action, cause of action, suit, demand, citation, summons, subpoena, complaint, proceeding, labor dispute, inquiry, audit, notice of violation, arbitration, investigation of any nature or audit by or before any court, tribunal or other Governmental Entity or arbitral body;

“Adjustment Amount” – See Section 2.3(d);

“Affiliate” shall mean any Person that directly or indirectly through one or more intermediaries controls, is controlled by or is under common control with another Person with the term “control” meaning, for this purpose, the power to direct or cause the direction of the management and policies of a Person, directly or indirectly, whether through the ownership of voting securities or partnership, membership or other ownership interests, or by contract or otherwise;

“Agreement” – See Preamble hereto;

“Ancillary Agreements” means each agreement, document, certificate or instrument delivered pursuant to, or in connection with, this Agreement;

“Balance Sheet” shall mean the unaudited balance sheet of the Company as of September 30, 2019 as set forth in Section 3.6 of the Disclosure Schedules;

“Basket” – See Section 7.4(a);

“Bonus Payments” shall mean the aggregate bonus payments to be paid by the Company to its employees in respect of any customary bonus or similar annual discretionary payment to be paid in relation to employee performance during fiscal year 2019 as set forth in Section 1.1(a) of the Disclosure Schedules;

“Business” – See Recitals hereto;

“Business Day” shall mean any day other than a Saturday, a Sunday or a day on which banks in New York, New York, are closed generally;

“Buyer” – See Preamble hereto;

“Buyer Indemnitees” – See Section 7.2;

“Cap” – See Section 7.4(a);

“Cash” means, with respect to the Company, all cash, cash equivalents and marketable securities held by the Company as of the Determination Time, determined in accordance with GAAP. For the avoidance of doubt, Cash shall (i) be calculated net of issued but uncleared checks and drafts and (ii) include checks and drafts deposited for the account of the Company but not yet reflected as available proceeds in the Company’s bank account;

“Closing” – See Section 2.2;

“Closing Date” – See Section 2.2;

“Closing Date Net Working Capital” means the Net Working Capital as of the Determination Time;

“Closing Payment Amount” – See Section 2.1(c);

“Closing Working Capital Report” – See Section 2.3(c);

“Closing Working Capital Statement” – See Section 2.3(b);

“Code” shall mean the Internal Revenue Code of 1986, as amended;

“Company Benefit Plans” – See Section 3.17(a);

“Company Intellectual Property” means all Intellectual Property that is owned or purported to owned by the Company;

“Company IP Agreements” means all licenses, sublicenses, consent to use agreements, settlements, coexistence agreements, covenants not to sue, waivers, releases,

permissions and other contracts, whether written or oral, relating to Intellectual Property to which the Company is a party, beneficiary or otherwise bound;

“Company IP Registrations” means all Company Intellectual Property that is subject to any issuance, registration or application by, to or with any Governmental Entity or authorized private registrar in any jurisdiction, including issued patents, registered trademarks, domain names and copyrights, and pending applications for any of the foregoing;

“Confidential Information” shall include confidential and proprietary information, including any such information relating to technology, products, services, finances, business plans, marketing plans, legal affairs, suppliers or customers, but shall not include information that (i) can be demonstrated in writing was already known by the recipient when received, (ii) is or after the date of this Agreement becomes obtainable from other sources other than pursuant to a violation of Law or breach of any Contract, (iii) is required to be disclosed to a Governmental Entity, or (iv) can be demonstrated in writing that it was independently developed by the receiving Person;

“Confidentiality Agreement” shall mean that certain Confidentiality Agreement entered into by and among the Seller and the Buyer dated July 24, 2019;

“Contracts” shall mean any written or oral legally binding contract, agreement, subcontract, lease, license or purchase order;

“Current Assets” shall mean accounts receivable, net, materials and supplies and prepaid expenses and other current assets of the Company, but excluding (a) Cash, (b) the portion of any prepaid expense of which Buyer will not receive the benefit following the Closing, (c) deferred tax assets (e.g., refunds or credits), (d) receivables from any of the Seller or its Affiliates, directors, employees, officers or stockholders and any of their respective Affiliates, and (e) any actual, expected or estimated NC DOT Payments, all as applied historically to the Company using the same accounting methods, practices, principles, policies and procedures, with consistent classifications, judgments and valuation and estimation methodologies that were used in the preparation of the Financial Statements. Current Assets shall be calculated in accordance with the Net Working Capital Methodology;

“Current Liabilities” shall mean accounts payable, accrued Taxes and accrued expenses, but excluding (a) payables to or accruals with respect to any of the Seller or its Affiliates, directors, employees, officers or stockholders and any of their respective Affiliates, (b) current or deferred income Tax liabilities, (c) the current portion of any Indebtedness of the Company, and (d) Transaction Expense, all as determined in accordance with GAAP as applied historically to the Company using the same accounting methods, practices, principles, policies and procedures, with consistent classifications, judgments and valuation and estimation methodologies that were used in the preparation of the Financial Statements. Current Liabilities shall be calculated in accordance with the Net Working Capital Methodology;

“Deficit Amount” – See Section 2.3(e);

“Determination Date” – See Section 2.3(c);

“Determination Time” means 12:01 a.m. Eastern time on the Closing Date;

“Direct Claim” – See Section 7.5(c);

“Disclosure Schedules” – See preamble to Article 3;

“Employees” shall mean all employees of the Company that are employed by the Company as of the date of this Agreement and as updated as of the Closing;

“Environmental Laws” shall mean any and all Laws regulating, relating to or imposing liability or standards of conduct concerning protection of the environment or of human health, or natural resource damages, including Laws relating to the manufacture, processing, distribution, use, handling, generation, labeling, transportation, storage, treatment, disposal, emission, discharge, presence, release, or threatened release of, or exposure to, any harmful or deleterious substance, chemical, petroleum, pollutant, contaminant, or hazardous or toxic material, substance or waste;

“Environmental Permits” shall mean any and all Licenses and Permits pursuant to or required under any Environmental Law;

“ERISA” shall mean the Employee Retirement Income Security Act of 1974, as amended, and the rules and regulations promulgated thereunder;

“ERISA Affiliate” means with respect to any entity, any other entity which, together with such first entity, is treated as a single employer within the meaning of Section 414(b), (c), (m) or (o) of the Code;

“Escrow Agent” means an escrow agent to be selected by the Buyer and Seller;

“Escrow Agreement” means an Escrow Agreement to be entered into by Buyer, Seller and Escrow Agent at the Closing, in form and substance satisfactory to Buyer and Seller;

“Estimated Cash” – See Section 2.3(a);

“Estimated Closing Date Net Working Capital” – See Section 2.3(a);

“Estimated Closing Working Capital Statement” – See Section 2.3(a);

“Estimated Indebtedness” – See Section 2.3(a);

“Estimated Net Working Capital Adjustment Amount” which may be positive or negative, means (i) the Estimated Closing Date Net Working Capital *less* (ii) an amount equal to \$ XXXXXXXXXX;

“Estimated Seller’s Transaction Expenses” – See Section 2.3(a);

“Excluded Liabilities” – See Section 2.5;

“Existing Policies” – See Section 3.18;

“FCC” – See Section 5.14;

“Final Cash” – See Section 2.3(c);

“Final Closing Date Net Working Capital” – See Section 2.3(c);

“Final Indebtedness” – See Section 2.3(c);

“Final Seller’s Transaction Expenses” – See Section 2.3(c);

“Financial Statements” – See Section 3.6(a);

“GAAP” shall mean U.S. generally accepted accounting principles as in effect from time to time;

“Grants” – See Section 3.26;

“Governmental Entity” shall mean any national, federal, state, provincial, local or international governmental or public body, political subdivision thereof, arbitrator, court, tribunal of competent jurisdiction, agency or regulatory authority or commission, or other governmental authority or instrumentality or quasi-governmental authority or any self-regulated organization or other non-governmental regulatory authority or any arbitrator, including the Federal Railroad Administration, the STB and the Railroad Retirement Board;

“Governmental Order” shall mean any order, writ, judgment, injunction, decree, stipulation, determination or award entered by or with any Governmental Entity;

“Increase Amount” – See Section 2.3(e);

“Indebtedness” shall mean, with respect to any Person, without duplication (a) the unpaid principal amount of and accrued interest on: (i) all indebtedness for borrowed money or with respect to deposits or advances of any kind; (ii) all indebtedness or obligations evidenced by any bonds, debentures, notes or similar instruments, including, in the case of each of clauses (i) and (ii), any prepayment penalties or premium, make-whole payments, indemnities, breakage costs (including breakage fees payable on termination of the arrangements), fees and other costs and expenses associated with the repayment of any indebtedness in connection with the transactions contemplated hereby; (b) all obligations upon which interest charges are customarily paid; (c) all obligations of such Person under conditional sale or other title retention agreements relating to assets purchased by such Person; (d) all obligations of such Person issued or assumed as the deferred purchase price of property or services; (e) all Indebtedness of others secured by (or for which the holder of such Indebtedness has an existing right, contingent or otherwise, to be secured by) any Lien on property owned or acquired by such Person, whether or not the obligations secured thereby have been assumed by such Person; (f) all guarantees by such Person of Indebtedness of others; (g) all capital lease obligations of such Person required to be capitalized under GAAP; (h) all net liabilities or obligations of such Person in respect of interest rate protection agreements, future and forward contracts, foreign currency exchange agreements, principal only trades, treasury trades or other interest or exchange rate hedging arrangements; (i) all reimbursement obligations under letters of credit or similar facilities, to the extent such letters of credit have been drawn; and (j) all accrued Taxes of the Company. The Indebtedness of any Person shall include the Indebtedness of any partnership or joint venture in which such Person is a general partner or

member. Notwithstanding the foregoing, “Indebtedness” shall not include: (A) operating or lease obligations (other than as set forth in (g), above); (B) deferred grant revenue; and (C) letters of credit, performance bonds, bankers’ acceptances or similar obligations, to the extent undrawn;

“Indemnification Escrow Amount” means [REDACTED];

“Indemnification Escrow Fund” has the meaning set forth in Section 2.1(c).

“Indemnified Party” – See Section 7.5;

“Indemnifying Party” – See Section 7.5;

“Indemnified Taxes” means (i) all Taxes (or the non-payment thereof) of the Company for all Pre-Closing Tax Periods (for avoidance of doubt, calculated by including in taxable income all adjustments made pursuant to Section 481(a) of the Code (or any analogous or similar provision of law) that will not previously have been included in income by the Company), (ii) all Taxes of any member (including a parent) of an affiliated, consolidated, combined or unitary group of which the Company (or any predecessor of the Company) is or was a member on or prior to the Closing Date, including pursuant to Treasury Regulations Section 1.1502-6 or any analogous or similar state, local or foreign law or regulation, (iii) all Taxes of any Person imposed on the Company as a transferee or successor, by contract or pursuant to any law, rule or regulation which Taxes related to an event or transaction occurring before the Closing, (iv) all Taxes (or non-payment thereof) of the Seller and (v) Seller’s share of any Transfer Taxes pursuant to Section 11.3, in each of the above cases, together with any out-of-pocket fees and expenses (including attorneys’ and accountants’ fees) incurred in connection therewith;

“Independent Accounting Firm” – See Section 2.3(c);

“Information Laws” means all applicable Laws concerning or relating to privacy, electronic communications, electronic marketing, data protection and/or data security, including with respect to the collection, storage, transmission, transfer (including cross-border transfers), use, processing, disclosure, breach notification, unauthorized access, destruction, encryption, confidentiality, security, safeguarding, and loss of Personal Information (including Personal Information of employees, contractors, customers, patients, and third parties), and telephone, email and mobile communications, including any approvals or notices required in connection therewith. Information Laws include any rules, rulings, executive orders, supervisory requirements, directives, circulars, opinions, interpretive letters and official releases of or by any government, or any authority, department or agency thereof. Information Laws include, to the extent applicable to the Company or the information it collects, HIPAA, the GDPR, the American Recovery and Reinvestment Act of 2009, state data breach notification Laws, state social security number protection Laws, the FTC Act, the Gramm-Leach-Bliley Act, the Fair Credit Reporting Act, the Fair and Accurate Credit Transaction Act and state consumer protection Laws, and as such Information Laws may be amended, replaced or superseded from time to time;

“Intellectual Property” shall mean all of the following owned or licensed by the Company, as licensee or licensor, or used in the Business: (i) registered and material unregistered trademarks and service marks and trade names, and all goodwill associated therewith; (ii) patents,

patentable inventions and computer programs (including password unprotected interpretive code or source code); (iii) trade secrets and other confidential and proprietary information; (iv) registered and material unregistered copyrights, database rights, and works of authorship (whether or not copyrightable) in all works, including software programs; (v) websites and domain names, and all related content and data; (vi) all rights in mask works; and (vii) all computer software;

“IT Assets” means Software, systems, servers, computers, hardware, firmware, middleware, networks, data communications lines, routers, hubs, switches and all other information technology equipment, in each case, used in the operation of the businesses of the Company;

“Law” shall mean any law, common law, constitution, statute, treaty, ordinance, rule, regulation, order, writ, judgment, injunction, settlement agreement, guideline, code, decree, edict or other legally enforceable requirement of any Governmental Entity, and includes rules and regulations of any regulatory or self-regulatory authority;

“Lease” and “Leases” – See Section 3.10(a);

“Leased Real Property” – See Section 3.10(a);

“Liability” means any liability, debt, claim or obligation of any nature (whether known or unknown, whether asserted or unasserted, whether absolute or contingent, whether direct or indirect, whether accrued or unaccrued, whether liquidated or unliquidated, and whether due or to become due);

“Licenses and Permits” – See Section 3.13;

“Lien” shall mean any mortgage, pledge, security interest, adverse ownership claim, encumbrance, lien (statutory or other), deed of trust, conditional sale agreement, claim, charge, lease, license (other than a grade crossing or utility installation affecting any portion of the Company’s Owned Real Property or Leased Real Property whether or not memorialized by a written agreement), easement, restrictive covenant, limitation, restriction, assessment or defect in title;

“Listed Intellectual Property” – See Section 3.11;

“Losses” means losses, damages, Liabilities, deficiencies, Actions, judgments, interest, awards, penalties, fines, costs or expenses of whatever kind, including reasonable attorneys’ fees and the cost of enforcing any right to indemnification hereunder and the cost of pursuing any insurance providers;

“Material Adverse Effect” shall mean any event, development, circumstance, effect or change that either (a) has had a material adverse effect on the Business, operations, rights, properties, assets, liabilities, condition (financial or otherwise), or results of operations of the Company, or (b) would materially impair the ability of the Seller to perform any of its obligations under, and to consummate the transactions contemplated by, this Agreement or any other related agreements, except any of the foregoing attributable to: (i) the negotiation, execution or announcement of the Stock Sale and its pendency, including losses or threatened losses of

employees, customers, suppliers, distributors or others having relationships with the Seller or the Company; (ii) any condition affecting any industry or market in which the Company participates including the short-line railroad industry, the United States or world economy, or the United States or global capital, banking, securities or financial markets in general, including any disruption thereof and any decline in the price of any security or any market index or any change in prevailing interest rates; (iii) compliance with, or taking action required by, this Agreement; (iv) any action (A) taken at the request of the Buyer, (B) taken by the Buyer, (C) or required by Law; (v) any matter disclosed in any schedule to this Agreement; (vi) any change or absence of anticipated change in (A) applicable Law or the enforcement, implementation or interpretation thereof, (B) GAAP or other accounting requirements or principles or the implementation or interpretation thereof, (C) terms or availability of Buyer's financing; (vii) national or international political or social conditions, such as (A) the commencement, continuation or escalation of war (in each case, whether or not declared), (B) calamities, or (C) acts of terrorism; (viii) any action taken (or omitted to be taken) with the written consent of the Buyer; (ix) any matter of which the Buyer is aware on the date hereof; (x) any natural or manmade disasters or acts of God; or (x) any failure of the Company to meet financial forecasts, projections or estimates (provided that the underlying causes of such failures (subject to other provisions of this definition) shall not be excluded). Notwithstanding the foregoing, in each case of clauses (ii), (iv)(C), (vi)(A)(B) and (vii) above, such event, development, circumstance, effect or change shall be considered in determining whether a Material Adverse Effect has occurred if such event, development, circumstance, effect or change, individually or in the aggregate, has or would reasonably be expected to have an adverse impact on the Company, that is disproportionate to the adverse impact on other Persons operating in the same industry as the Company;

“Material Contracts” – See Section 3.16(a);

“Net Working Capital” – See Section 2.4;

“Net Working Capital Methodology” shall mean the accounting methods, practices, principles, policies and procedures, with consistent classifications, judgments, valuation and estimation methodologies, used to calculate the Net Working Capital of the Company as historically applied to the Company, and as illustrated in the example calculation as of September 30, 2019, set forth on Schedule A, attached hereto and incorporated herein. The Net Working Capital Methodology presumes all uncollectible accounts receivables are excluded from the calculation of the “Estimated Closing Date Net Working Capital”, “Closing Date Net Working Capital” and “Final Closing Date Net Working Capital” as represented by the Seller in Section 3.6(c). For purposes of the Estimated Closing Date Net Working Capital and Final Closing Date Net Working Capital, the accounts payable should represent an accurate accounting of obligations based on the date the expense was incurred and not on an estimate of cash disbursements as used in Schedule A.

“Owned Real Property” – See Section 3.9(a);

“Permitted Liens” shall mean (i) Liens for Taxes not yet due and payable, (ii) Liens imposed by Law and incurred in the ordinary course of business for obligations not yet due to carriers, warehousemen, laborers, materialmen and the like, it being understood that such Liens do

not include Liens arising under any applicable Environmental Law and (iii) Liens in respect of pledges or deposits under workers' compensation Laws;

"Person" shall mean any individual, corporation, partnership, joint venture, association, joint-stock company, trust, limited liability company, unincorporated organization or Governmental Entity;

"Personal Information" – See Section 3.12(a);

"Personal Property" means all furniture, fixtures, equipment and machinery and other items of tangible personal property;

"Plans" – See Section 3.17(a);

"Post-Signing Returns" – See Section 5.1(b);

"Pre-Closing Period" shall mean any period (or portion of a period) ending on or before the Closing Date;

"Pre-Closing Tax Period" shall mean any taxable period (or portion of a taxable period) ending on or before the Closing Date, including the portion of any Straddle Period ending on and including the Closing Date;

"Privacy Contracts" means past and present internal or external policies of the Company, and all contracts between the Company and any person that are applicable to the creation, collection, obtaining, tracking, retention, storage, processing, sharing, transmission, security, confidentiality protection, use and/or disclosure of Personal Information, trade secrets or Confidential Information, including, without limitation, all such contracts used in the provision of any deliverables or services to third parties;

"Privacy Laws" means any Laws that relate to and/or address privacy, security, data use, consumer tracking, consumer targeting, data protection and destruction, data breach notification or data transfer issues, including, without limitation, HIPAA, the CAN-SPAM Act and all current and former implementing Laws, rules, regulations, and all guidelines and industry standards applicable to the Company and the businesses of the Company;

"Privacy Policies" means all written policies applicable to the Company relating to the collection, use, storage, processing, transfer, disclosure, and protection of Personal Information, including all website and mobile application privacy policies;

"Purchase Price" – See Section 2.1(b);

"Purchase Price Adjustment Escrow Amount" means \$ [REDACTED];

"Purchase Price Adjustment Escrow Fund" has the meaning set forth in Section 2.1(c);

"QRTME Fraction" – See Section 3.10(c)

“Real Property” – See Section 3.10(c);

“Regulations” shall mean the Treasury Regulations (including Temporary Regulations) promulgated by the United States Department of Treasury with respect to the Code or other federal tax statutes;

“Releasing Person” – See Section 5.13;

“Representative” means, with respect to any Person, any and all directors, officers, employees, consultants, financial advisors, counsel, accountants and other agents of such Person.

“Restricted Business” – See Section 5.10;

“Securities Act” shall mean the United States Securities Act of 1933, as amended, and all rules and regulations of the United States Securities and Exchange Commission promulgated thereunder;

“Security Breach” means breach, security breach, breach of personal information and all similar terms as defined under any relevant Laws, including without limitation Privacy Laws;

“Security Incident” means any material unauthorized access, use, disclosure, modification, or destruction of information or interference with system operations of IT Assets;

“Seller” – See Preamble hereto;

“Seller Benefit Plans” means all of the Plans other than the Company Benefit Plans;

“Seller Indemnitees” – See Section 7.3;

“Shares” – See Recitals hereto;

“Software” means any and all (i) computer programs, including any and all software implementation of algorithms, models and methodologies, development tools, user interfaces and application programming interfaces, whether in source code or object code, (ii) databases and computations, including any and all data and collections of data, whether machine readable or otherwise, (iii) documentation, including user manuals, training materials, design notes and programmers’ notes relating to any of the foregoing and (iv) the content and information contained in any web site;

“STB” shall mean the United States Surface Transportation Board;

“Stock Sale” – See Section 2.1(a);

“Straddle Period” shall mean any taxable period beginning on or before, and ending after, the Closing Date;

“Subsidiary” shall mean, with respect to any Person, any other Person (i) of which the first Person owns directly or indirectly 50% or more of the equity interest in the other Person;

(ii) of which the first Person or any other Subsidiary of the first Person is a general partner or
(iii) of which securities or other ownership interests having ordinary voting power to elect a majority of the board of directors or other persons performing similar functions with respect to the other Person are at the time owned by the first Person and/or one or more of the first Person's Subsidiaries;

"Tax Return" shall mean any report, return, declaration, statement, information return, filing, election, claim for refund or other information, including any schedules or attachments thereto, and any amendments to any of the foregoing required to be supplied in connection with Taxes;

"Taxes" shall mean all United States federal, state, local and foreign taxes, including net income, gross income, gross receipts, production, excise, employment, sales, use, transfer, ad valorem, profits, license, capital stock, capital gains, franchise, severance, stamp, withholding, Social Security, railroad retirement, employment, unemployment, disability, worker's compensation, payroll, utility, windfall profits, Personal Property, real property, intangible property, value added, escheat, unclaimed property, registration, alternative or add-on minimum, estimated and other taxes, customs, duties, governmental fees or like charges of any kind whatsoever, including any interest, penalties, fines, related liabilities or additions thereto, and "Tax" shall mean any one of them;

"Third Party Claim" – See Section 7.5(a);

"Top Customers" – See Section 3.27;

"Top Suppliers" – See Section 3.27;

"Track" means any railroad track and any other track materials (OTM) including all rails, ties, tie plates, spikes, angle bars, bolts, fasteners, switches, switch control devices, ballast, signals and other support structures used in the operation of a railroad;

"Transaction Bonuses" shall mean special bonuses to be paid by the Company prior to the Closing, as determined by the Seller, in appreciation of services during Seller's ownership of the Company;

"Transaction Expenses" – See Section 12.4;

"Transferred IP" – See Section 5.5(a);

"Unauthorized Code" means any virus, Trojan horse, worm, or other software routines or hardware components designed to permit unauthorized access, to disable, erase, or otherwise harm Software, hardware or data.

ARTICLE 2. PURCHASE AND SALE OF SHARES OF THE COMPANY.

SECTION 2.1 Purchase Price. Subject to the terms and conditions set forth in this Agreement and in reliance upon the representations and warranties of the Seller set forth below, at the Closing:

(a) The Buyer shall purchase from the Seller, and the Seller shall sell, transfer, convey and deliver to the Buyer (or the Buyer's designee), the Shares, free and clear of all Liens (such transaction, the "Stock Sale");

(b) The aggregate purchase price for the Shares shall be (i) [REDACTED] plus (ii) the Estimated Net Working Capital Adjustment Amount (which may be positive or negative) less (iii) Estimated Indebtedness, plus (iv) the Estimated Cash, less (v) the Estimated Seller's Transaction Expenses, which aggregate amount shall be subject to adjustment after the Closing in the manner set forth in this Article 2 (the "Purchase Price");

(c) The Stock Sale shall be effected at the Closing by the Seller delivering to the Buyer (or the Buyer's designee) stock certificates or another appropriate delivery evidencing all of the Shares, duly endorsed in blank or accompanied by stock powers duly executed in blank, in each case, in a form satisfactory to the Buyer, such shares being delivered free and clear of all Liens, and accompanied by any assignments, authorizations, endorsements or any other instruments and documents as shall be effective (or as required by any provision of the Certificate of Incorporation or By-laws to vest in the Buyer (or the Buyer's designee), at the Closing, good and marketable title to the Shares, free and clear of all Liens other than such as may be created by or on behalf of the Buyer, in exchange for which the Buyer shall deliver (or cause to be delivered) to the Seller at the Closing an amount in cash equal to the Purchase Price minus the Purchase Price Adjustment Escrow Amount minus the Indemnification Escrow Amount (the "Closing Payment Amount"). Payment of the Closing Payment Amount shall be made by wire transfer of immediately available funds to such account as the Seller shall designate in writing to the Buyer at least three Business Days prior to the Closing Date. At the Closing, Buyer shall deliver the (i) the Purchase Price Adjustment Escrow Amount (such amount, including any interest or other amounts earned thereon and less any disbursements therefrom in accordance with the Escrow Agreement, the "Purchase Price Adjustment Escrow Fund") by wire transfer of immediately available funds to accounts designated by the Escrow Agent, to be held for the purpose of securing the obligations of Seller in Section 2.3 and (ii) the Indemnification Escrow Amount (such amount, including any interest or other amounts earned thereon and less any disbursements therefrom in accordance with the Escrow Agreement, the "Indemnification Escrow Fund") by wire transfer of immediately available funds to accounts designated by the Escrow Agent, to be held for the purpose of securing the indemnification obligations of Seller set forth in Article 7 and Section 2.3; and

(d) The Buyer and the Company, as applicable, shall be entitled to deduct and withhold from any amounts otherwise payable pursuant to this Agreement such amount as the Buyer or the Company is required to deduct and withhold with respect to the making of such payment under the Code or any other applicable Tax Law. To the extent that amounts are so withheld, such withheld amounts shall be treated for purposes of this Agreement as having been paid to the applicable Person in respect of which such deduction or withholding was made.

SECTION 2.2 Closing. Subject to the satisfaction or waiver of the terms and conditions set forth in this Agreement, the closing of the Stock Sale and the consummation of the transactions contemplated by this Agreement (the "Closing") shall take place at the offices of Mayer Brown LLP, 71 S Wacker Dr., Chicago, IL 60606, which the parties may participate in

electronically and/or telephonically, at 10:00 a.m. Eastern time on the third Business Day following the satisfaction or waiver of the conditions set forth in Articles 8 and 9 (other than those conditions that by their terms cannot be satisfied until the Closing, but subject to the satisfaction or waiver of such conditions), or at such other place and time as may be mutually agreed to by the parties hereto (the “Closing Date”).

SECTION 2.3 Purchase Price Adjustment.

(a) At least five (5) Business Days prior to the Closing Date, the Seller shall prepare and deliver to the Buyer a written statement (the “Estimated Closing Working Capital Statement”) setting forth its good faith estimate of (i) the Closing Date Net Working Capital as of the Determination Time (the “Estimated Closing Date Net Working Capital”), (b) the amount of Cash of the Company as of the Determination Time in an amount not to exceed \$ [REDACTED] (the “Estimated Cash”), (c) the amount of Indebtedness of the Company as of the close of business on the Closing Date (the “Estimated Indebtedness”), and (d) the Seller’s Transaction Expenses that remain unpaid as of the Closing (the “Estimated Seller’s Transaction Expenses”), in each case, together with reasonable supporting materials used in the preparation of the Estimated Closing Working Capital Statement, and any additional information that Buyer reasonable requests to verify the amounts reflected in the Estimated Closing Working Capital Statement. The Estimated Closing Working Capital Statement (x) shall be prepared in accordance with the Net Working Capital Methodology and (y) shall not give effect to the consummation of the transactions contemplated by this Agreement, including any payments of cash in respect of the Purchase Price. During the period immediately following Buyer’s receipt of the Estimated Closing Working Capital Statement until the Closing, the Seller agrees to provide, or cause the Company to provide, Buyer and its employees, agents and representatives with reasonable access to the working papers and books and records of the Company and the respective employees, agents and representatives of the members of the Company, in each case, related to the preparation of the Estimated Closing Working Capital Statement. The Company shall consider in good faith any potential adjustments to the Estimated Closing Working Capital Statement raised by Buyer and shall, if the Seller agrees with any such adjustments after good faith determination by the Seller (after consultation with his advisors), reflect such adjustments in an updated version of the Estimated Closing Working Capital Statement.

(b) As soon as reasonably practicable following the Closing Date, and in any event within one hundred twenty (120) days thereof, the Buyer shall prepare and deliver to the Seller a written statement (the “Closing Working Capital Statement”) setting forth a calculation of (a) the Closing Date Net Working Capital, (b) the amount of Cash of the Company as of the Determination Time in an amount not to exceed \$ [REDACTED], (c) the amount of Indebtedness of the Company as of the close of business on the Closing Date, and (d) the Seller’s Transaction Expenses that remain unpaid as of the Closing. The Closing Working Capital Statement (x) shall be prepared in accordance with the Net Working Capital Methodology and (y) shall not give effect to the consummation of the transactions contemplated by this Agreement, including any payments of cash in respect of the Purchase Price.

(c) During the Buyer’s preparation of the Closing Working Capital Statement and any subsequent period of dispute with respect to the calculations required by this Section 2.3, the Seller shall cooperate in good faith with the Buyer to the extent reasonably requested by the

Buyer to prepare the Closing Working Capital Statement or to investigate the basis for any dispute. The Closing Working Capital Statement shall be examined by the Seller, and the Seller shall, not later than thirty (30) calendar days after receipt of the Closing Working Capital Statement, render and deliver to the Buyer a written report thereon (the “Closing Working Capital Report”). During the preparation of the Closing Working Capital Report and any subsequent period of dispute with respect thereto, the Buyer shall provide the Seller with reasonable access during normal business hours on reasonable advance notice to the books, records (including work papers, schedules, memoranda and other documents) and employees of the Company, which materials and communications shall be subject to customary confidentiality agreements and access letters entered into by the Seller prior to receiving access to such materials. The Closing Working Capital Report shall list with specificity those items, if any, from the Closing Working Capital Statement to which the Seller takes exception and shall explain the Seller’s proposed adjustment and be accompanied by appropriate information and documentation in reasonable detail supporting the Seller’s calculations. If the Seller fails to deliver to the Buyer a Closing Working Capital Report within thirty (30) calendar days following receipt of the Closing Working Capital Statement, the Seller shall be deemed to have accepted the Closing Working Capital Statement for the purposes of any adjustment to the Purchase Price under this Article 2. If the Seller delivers to the Buyer a Closing Working Capital Report listing the Seller’s objections and otherwise complying with the requirements of this Section 2.3 within thirty (30) calendar days following receipt of the Closing Working Capital Statement, the Buyer shall examine the Closing Working Capital Report and shall have thirty (30) calendar days from receipt of such Closing Working Capital Report to notify the Seller of the Buyer’s objections to the Closing Working Capital Report. If the Buyer fails to notify the Seller of its objections to the Closing Working Capital Report within such thirty (30) calendar day period, the Buyer shall be deemed to have accepted the Closing Working Capital Report for the purposes of any adjustment to the Purchase Price under this Article 2. If the Buyer gives the Seller notice of its objections to the Closing Working Capital Report, and if in good faith the Seller and the Buyer are unable, within fifteen (15) calendar days after receipt by the Seller of the notice from the Buyer of such objections, to resolve the disputed exceptions, such disputed exceptions will be referred to Grant Thornton LLP or, if such firm is providing accounting or other services to either the Buyer or the Seller or any of their respective Affiliates at the time of such dispute, another firm of independent certified public accountants (“Independent Accounting Firm”) mutually acceptable to the Seller and the Buyer. The Buyer and the Seller shall cooperate with the Independent Accounting Firm to the extent reasonably requested by the Independent Accounting Firm to prepare a written report. The Independent Accounting Firm shall, within thirty (30) calendar days following its selection, deliver to the Seller and the Buyer a written report (accompanied by appropriate information and documentation in reasonable detail supporting the Independent Accounting Firm’s calculations) determining only such disputed exceptions, and its determinations will be final and binding upon the parties hereto for the purposes of any adjustment to the Purchase Price under this Article 2. The determination by the Independent Accounting Firm with respect to any disputed exception shall not be higher than the higher amount, or lower than the lower amount, proposed by the parties. The fees and disbursements of the Independent Accounting Firm acting under this Section 2.3 shall be evidenced by a detailed and itemized statement and shall be allocated between Buyer and Seller based upon the percentage which the portion of the contested amount not awarded to each party bears to the amount actually contested by such party. For example, if the Seller claims the Closing Date Net Working Capital is \$1,000 greater than the amount determined by the Buyer’s accountants, the Buyer contests only \$500 of

the amount claimed by the Seller, and the Independent Accounting Firm ultimately resolves the dispute by awarding the Seller \$300 of the \$500 contested, then the costs and expenses of the Independent Accounting Firm will be allocated 60% (i.e., $\$300 \div \500) to the Buyer and 40% (i.e., $\$200 \div \500) to the Seller. The Buyer agrees that following the Closing until such time as the Adjustment Amount is determined, it will not take any action, and the Seller agrees that prior to the Closing it will not take any action, with respect to the accounting, books, records, policies and procedures of the Company that would obstruct or prevent the preparation of the Closing Working Capital Statement, the Closing Working Capital Report or the report of the Independent Accounting Firm as provided in this Section 2.3. The amount of Cash as of the Determination Time in an amount not to exceed \$[REDACTED], the amount of Indebtedness as of the close of business on the Closing Date, the Closing Date Net Working Capital, and the amount of Seller's Transaction Expenses unpaid as of the Closing, in each case as finally determined pursuant to this Section 2.3(c), shall be referred to herein as the "Final Cash," the "Final Indebtedness," the "Final Closing Date Net Working Capital" and the "Final Seller's Transaction Expenses". The date on which the Final Cash, Final Indebtedness, Closing Date Net Working Capital and Final Seller's Transaction Expenses are finally determined in accordance with this Section 2.3(c) is hereinafter referred to as the "Determination Date".

(d) The "Adjustment Amount," which may be positive or negative, shall mean (i) the Final Closing Date Net Working Capital *minus* (ii) the Estimated Closing Date Net Working Capital. In addition, the Adjustment Amount will include aggregate differences between the Estimated Cash and Final Cash, the Estimated Indebtedness and the Final Indebtedness, and the Estimated Seller's Transaction Expenses and the Final Seller's Transaction Expenses. If the Adjustment Amount is a positive, then the Purchase Price shall be increased by the Adjustment Amount, and if the Adjustment Amount is a negative number, the Purchase Price shall be decreased by the absolute value of the Adjustment Amount. The Adjustment Amount shall be paid in accordance with Section 2.3(e).

(e) If the Adjustment Amount is a positive number (such amount, the "Increase Amount"), then, promptly following the Determination Date, and in any event within three (3) Business Days of the Determination Date, the Buyer shall pay to the Seller an amount in cash equal to the Increase Amount, less any applicable withholding (subject to Section 2.1(d)) and the parties shall deliver joint written instructions to the Escrow Agent instructing the Escrow Agent to release the Purchase Price Adjustment Escrow Fund to Seller. If the Adjustment Amount is a negative number (the absolute value of such amount, the "Deficit Amount"), then, promptly following the Determination Date, and in any event within three (3) Business Days of the Determination Date, the Seller shall pay to the Buyer an amount equal to the Deficit Amount. Any payment of the Deficit Amount owed by Seller to Buyer shall be paid by the Escrow Agent pursuant to the terms of this Agreement and the Escrow Agreement: (i) from the Purchase Price Adjustment Escrow Fund (and the parties shall deliver joint written instructions to the Escrow Agent) and (ii) to the extent the amount of the post-Closing Adjustment exceeds the amount available in the Purchase Price Adjustment Escrow Fund, at the option of Buyer, either from the Indemnification Escrow Fund, from the Seller directly, or by set-off against obligations owed to Seller.

SECTION 2.4 Net Working Capital. For purposes of this Article 2, "Net Working Capital" as of any date means the amount equal to Current Assets *less* Current Liabilities, of the Company (on a consolidated basis), each determined in accordance with the Net Working

Capital Methodology. For the avoidance of doubt, current liabilities shall not include any amounts owed or owing as Bonus Payments, which such payments the Seller shall make prior to the Closing Date.

SECTION 2.5 Excluded Liabilities. Notwithstanding anything contained in this Agreement to the contrary, (i) any and all payables of the Company owed to the Seller or any of its Affiliates, (ii) any liability under or relating to any Plan as a result of the execution of this Agreement, shareholder approval of this Agreement or the transactions contemplated by this Agreement, including the Bonus Payments, (iii) any Liabilities arising or relating to a Pre-Closing Period, (iv) any Indemnified Taxes, and (v) the Seller's Transaction Expenses (collectively, the "Excluded Liabilities"), in each case, shall not be liabilities or obligations of the Buyer or the Company at or after the Closing.

ARTICLE 3. REPRESENTATIONS AND WARRANTIES OF THE SELLER.

The Seller hereby represents and warrants to the Buyer, as of the date hereof and as of the Closing Date or, if a representation or warranty is made as of a specific date, as of such date, subject to such information as is disclosed in the corresponding section of the disclosure schedules to this Agreement (the "Disclosure Schedules"), as follows:

SECTION 3.1 The Seller.

(a) Validity. The Seller has all requisite capacity and authority to enter into and deliver this Agreement and the Ancillary Agreements, to consummate the transactions contemplated hereby and thereby and to carry out its obligations hereunder and thereunder. The execution and delivery by the Seller of this Agreement and the Ancillary Agreements and the performance by the Seller of its obligations hereunder and thereunder have been duly authorized by all necessary action of the Seller. This Agreement and the Ancillary Agreements have been duly executed and delivered by the Seller and, assuming the due authorization, execution and delivery of this Agreement and the Ancillary Agreements by the other parties thereto, this Agreement and the Ancillary Agreements constitute the valid and binding obligation of the Seller, enforceable against the Seller in accordance with their respective terms.

(b) Ownership of Shares. The Shares comprise all of the issued and outstanding capital stock or other ownership interests of the Company, and the Shares are owned, beneficially and of record, by the Seller, free and clear of any Liens other than such as may be created by or on behalf of the Buyer, and has been duly authorized and validly issued and is fully paid, nonassessable and was not issued in violation of any preemptive rights, rights of first refusal or any similar rights. There are no outstanding or authorized obligations, warrants, convertible or exchangeable securities, subscriptions, equity appreciation rights, options or other rights (including preemptive rights), to subscribe for or purchase from the Company, or other Contracts, commitments of any character, or agreements providing for the issuance of or granting any Person the right to acquire any shares of any class of capital stock or other ownership interests of the Company, or any securities or other instruments convertible into or exchangeable or exercisable for any shares of any class of capital stock or other ownership interests of the Company, and no Company is subject to any obligation (contingent or otherwise) to repurchase or otherwise acquire or retire, or to register under the Securities Act, any shares of its capital stock. There are no proxies,

voting agreements, stockholder agreements or other agreements with respect to the voting or transfer of any shares of capital stock or other ownership interests of the Company. The Company does not have any outstanding or authorized any stock appreciation, phantom stock, profit participation or similar rights. At Closing, the Buyer shall have good and valid title to all of the capital stock and other ownership interests of the Company, free and clear of any Liens, other than such Liens as may be created by or on behalf of the Buyer. Other than this Agreement, the Seller is not bound by any Contract restricting its right to transfer the Shares.

(c) There are no securities or rights of the Company or contracts, commitments, understandings or arrangements by which the Company is bound, obligating the Company to redeem or otherwise acquire any Shares or other equity interests of the Company. The Company has no outstanding bonds, debentures, notes or other similar obligations, the holders of which have the right to vote (or which are convertible into or exercisable for securities having the right to vote) with the shareholders of the Company. None of the issued and outstanding shares, capital stock, equity interests or other equity securities of the Company was issued, sold or transferred in violation of the Securities Act of 1933, as amended, or any other applicable securities Law.

(d) There are no (i) preemptive rights, rights of first refusal, options, put or call rights or obligations or anti-dilution rights related by or to which the Company is subject with respect to the issuance, sale or redemption of any shares, capital stock, equity interests, assets or other equity securities of the Company or (ii) rights to have any shares, capital stock, equity interests or other equity securities of the Company registered for sale to the public in connection with the Laws of any jurisdiction.

SECTION 3.2 Corporate Organization, Authority and Qualification of the Company.

(a) The Company is a corporation, duly organized, validly existing and in good standing under the Laws of the state of Virginia and has all requisite power and authority to own, operate or lease the assets, rights or properties now owned, licensed or leased by it, and to conduct its business as now conducted, and is duly licensed or qualified to do business as a foreign entity and is in good standing in each jurisdiction in which the character of the properties, rights and assets owned, licensed or leased by it or the nature of the business conducted by it makes such licensing or qualification necessary or desirable, except that the failure to be so licensed or qualified and in good standing would not reasonably be expected to have a Material Adverse Effect. All corporate actions taken by the Company have been duly authorized, and the Company has not taken any action that in any respect conflicts with, constitutes a default under, or results in a violation of, any provision of its Certificate of Incorporation (or similar organizational documents). The Company has all requisite power and authority to enter into, and deliver any Ancillary Agreements to which it is a party, to consummate the transactions contemplated thereby and to carry out its obligations thereunder. The execution and delivery by the Company of the Ancillary Agreements and the performance by the Company of its obligations hereunder and thereunder have been duly authorized. Each Ancillary Agreements to which the Company is a party has been duly executed and delivered by the Company, assuming the due authorization, execution and delivery of the Ancillary Agreements by each of the parties thereto, the Ancillary Agreements constitute the valid and binding obligation of the Company, enforceable against the Company in accordance with their respective terms.

(b) Section 3.2(b) of the Disclosure Schedules sets forth the Company's name, type of entity, the jurisdiction and date of its incorporation, its authorized capital stock, the number and type of its issued and outstanding shares of capital stock, and the current ownership of such shares. Copies of the Certificate of Incorporation (or comparable organizational documents, as applicable) of the Company, each as amended to date and currently in full force and effect, have been furnished to the Buyer and its representatives, and such copies are accurate and complete and no other organizational or governing documents are applicable to, or binding on the Company.

(c) There are no corporations, partnerships, joint ventures, associations or other entities in which the Company owns, of record or beneficially, any direct or indirect equity interest or any right (contingent or otherwise) to acquire the same, except as set forth in Section 3.2(c) of the Disclosure Schedules. Except as set forth in Section 3.2(c) of the Disclosure Schedules, the Company is not a member of (nor is any part of the Business conducted through) any partnership nor is the Company a participant in any joint venture or similar arrangement.

SECTION 3.3 No Conflict or Violation.

(a) The execution, delivery and performance by the Seller of this Agreement, the Ancillary Agreements to which it is a party and the transactions contemplated hereby and thereby do not and will not (i) violate or breach any Law, order, judgment or decree of any Governmental Entity applicable to the Seller or the Company or any of their respective assets or business, or (ii) except as set forth on Section 3.3(a) of the Disclosure Schedules, violate, conflict with or result in a breach of or constitute (with or without due notice or lapse of time or both) a default, require consent or notice under, or give to others any rights of termination, acceleration, amendment, vesting, suspension, modification, revocation or cancellation of, or result in the creation or imposition of any Lien upon the Company's assets, properties or rights of the Company under any Contract to which the Company is a party or by which the Company is bound or to which any of its assets is subject, or result in the acceleration of any Indebtedness created thereunder or give rise to (or accelerate) a right thereunder to require any payment to be made by the Company.

(b) There is no pending Action or, to the knowledge of the Seller, threatened Action before any Governmental Entity by or against the Seller or the Company relating to (i) the Seller's ownership of the Shares or (ii) any actual or potential bankruptcy or insolvency of the Seller or the Company.

SECTION 3.4 Consents and Approvals. Except as set forth on Section 3.4 of the Disclosure Schedules, the execution, delivery and performance of this Agreement by the Seller and the Ancillary Agreements to which the Seller is a party or the consummation of the transactions contemplated hereby and thereby by the Seller do not and will not require any consent, waiver, approval, license, authorization or permit of, or order of, action by, filing with or notification to, any Governmental Entity or Person, except for any approvals, authorizations or exemptions required to be obtained from the STB.

SECTION 3.5 Indebtedness. Except as set forth on Section 3.5 of the Disclosure Schedules, the Company has no Indebtedness.

SECTION 3.6 Financial Statements; Undisclosed Liabilities.

(a) Section 3.6(a) of the Disclosure Schedules consists of the following financial statements (the “Financial Statements”): (i) the Balance Sheet and related statement of income for the period then ended; and (ii) the unaudited balance sheet of the Company as of December 31, 2017 and December 31, 2018 and the related statements of income for the fiscal years then ended. The Financial Statements have been based upon the information contained in the Company’s books and records, have been prepared on a cash basis on a consistent basis throughout the period involved, and present fairly in all material respects the financial condition, results of operations and income of the Company as of the times and for the periods referred to therein.

(b) The Company maintains books and records accurately reflecting, in all material respects, their respective assets and liabilities and maintain proper and adequate internal accounting controls that provide assurance that (i) transactions are executed with the Company management’s authorization; (ii) transactions are recorded as necessary to permit preparation of the Financial Statements and to maintain accountability for the Company’s assets, as applicable; (iii) access to the Company’s assets is permitted only in accordance with the Company’s management’s authorization; (iv) the reporting of the Company assets is compared with existing assets at regular intervals; and (v) accounts, notes and other receivables and inventory are recorded accurately, and proper and adequate procedures are implemented to effect the collection thereof on a current and timely basis.

(c) The accounts receivable reflected on the Balance Sheet and the accounts receivable arising after the date thereof (a) have arisen from bona fide transactions entered into by the Company involving the sale of goods or the rendering of services in the ordinary course of business consistent with past practice; (b) constitute valid claims of the Company not subject to claims of set-off or other defenses or counterclaims other than normal cash discounts accrued in the ordinary course of business consistent with past practice and (c) is fully collectable.

(d) The Company has no Liabilities, except (i) Liabilities that are accrued or reserved against in the Financial Statements, (ii) Liabilities which have arisen since the date of the Balance Sheet that were incurred in the ordinary course of business (none of which results from, arises out of, relates to, is in the nature of or was caused by any breach of contract, breach of warranty, tort, infringement, misappropriation or violation of or Liability under any Law) or (iii) Liabilities otherwise disclosed on Section 3.6(d) of the Disclosure Schedules.

SECTION 3.7 Conduct in the Ordinary Course; Absence of Certain Changes, Events and Conditions.

(a) Except as set forth on Section 3.7(a) of the Disclosure Schedules, since the date of the Balance Sheet, the Company has not suffered any effects, changes, events or developments which have had or would reasonably be expected to have a Material Adverse Effect.

(b) Since the date of the Balance Sheet, the Company has operated and conducted the Business in the ordinary course of business consistent with past practice and, except

as set forth on Section 3.7(b) of the Disclosure Schedules, has not taken any action that if taken after the date hereof would be prohibited by Section 5.1.

SECTION 3.8 Tax Matters. Except as set forth on Section 3.8 of the Disclosure Schedules:

(a) The Company has filed all Tax Returns required to have been filed by it (taking into account any extensions of time to file) and such Tax Returns are true, complete and correct in all respects. The Company has paid or properly accrued all Taxes (whether or not shown as due on such Tax Returns) except those that are being contested in good faith and that have been provided for in accordance with GAAP. All Taxes that the Company is obligated to withhold from amounts owing to any employee, creditor or third party have been fully paid or properly accrued.

(b) No Tax audits or administrative or judicial Tax proceedings are presently being conducted with respect to the Company. The Company has not received any written notice of deficiency or proposed adjustment for any amount of Tax that has not been fully paid or settled from any taxing authority. The Company has not waived any statute of limitations in respect of Taxes beyond the date hereof or agreed to any extension of time beyond the date hereof with respect to a Tax assessment or deficiency, which waiver or extension is still outstanding.

(c) The Company (i) has not been a member of an affiliated group filing a consolidated federal income Tax Return (other than a group the common parent of which is the Seller) or (ii) has no liability for the Taxes of any Person under Section 1.1502-6 of the Treasury Regulations (or any similar provision of state, local or non-U.S. Law), as a transferee or successor, by contract or pursuant to any Law (other than ordinary course agreements, such as leases or loans, the primary focus of which is not Taxes).

(d) The Company has not distributed stock of another Person, or has not had its stock distributed by another Person, in a transaction within the two (2)-year period ending on the date of this Agreement that was purported or intended to be governed in whole or in part by Section 355 or 361 of the Code.

(e) There are no Liens for material Taxes (other than Permitted Liens) upon any of the assets of the Company.

(f) The Company is not a party to, or is not bound by, any Tax sharing, allocation or indemnity agreement, arrangement or similar Contract.

(g) The Company has properly collected and remitted sales, use, property, value-added, goods and services and similar Taxes with respect to sales, services and similar transactions.

(h) No claim or assertion has been made, or has been threatened, by any Governmental Entity against the Company in any jurisdiction where the Company does not currently file a Tax Return that it is or may be subject to Tax by such jurisdiction.

(i) The Company has not been a party to any “reportable transaction,” as defined in Code Section 6707A(c)(1) and Treasury Regulations Section 1.6011-4(b).

(j) The Company will not be required to include any item of income in, or exclude any item of deduction from, taxable income for any taxable period (or portion thereof) ending after the Closing Date as a result of any: (i) change in method of accounting made prior to the Closing Date for a taxable period ending on or prior to the Closing Date; (ii) “closing agreement” as described in Code Section 7121 (or any corresponding or similar provision of state, local, or non-U.S. tax Law) executed on or prior to the Closing Date; (iii) intercompany transactions or any excess loss account described in the Treasury Regulations under Code Section 1502 (or any corresponding or similar provision of state, local or non-U.S. income tax Law); (iv) installment sale or open transaction disposition made on or prior to the Closing Date; (v) prepaid amount received on or prior to the Closing Date; or (vi) election under Code Section 108(i).

(k) Seller is a “United States person” as such term is used in Section 1445 of the Code, and the Company is not, or has not been, a “U.S. real property holding corporation” within the meaning of Section 897 of the Code.

(l) As of the Closing, the Company is, and has been since its formation, taxed as an C corporation for U.S. federal income Tax purposes.

SECTION 3.9 Owned Real Property.

(a) Section 3.9(a) of the Disclosure Schedules sets forth a list, which is complete and accurate, of all real property (including the fee title holder) owned by the Company (the “Owned Real Property”). The Company has good and marketable fee title to the Owned Real Property owned by it free and clear of all Liens except for (i) Permitted Liens or (ii) minor title defects, recorded easements or Liens that do not, individually or in the aggregate, impair the continued use, occupancy, value or marketability of title. The Seller has made available to Buyer true and correct copies of (A) all deeds and other instruments (as recorded) by which the Company acquired their respective interests in the Owned Real Property and (B) all surveys with respect to the Owned Real Property, in the case of clauses (A) and (B), to the extent in the Company’s possession or control. There are no outstanding options, rights of first offer or rights of first refusal to purchase or lease any Owned Real Property or any portion thereof or interest therein.

(b) None of the Seller or the Company has knowledge of or received any written notice of, any pending or contemplated rezoning, eminent domain or condemnation proceeding affecting the Owned Real Property.

SECTION 3.10 Leased Real Property.

(a) Section 3.10(a) of the Disclosure Schedules sets forth a list of all material leases, subleases, licenses, easements, rights of way, trackage rights, or similar agreements, together with all amendments and supplements thereto, with respect the use or occupancy of real properties in which the Company is a party (each, a “Lease” and collectively, the “Leases”; the property covered by Leases is referred to herein as the “Leased Real Property”). Complete and accurate copies of each Lease have been made available to Buyer prior to the date hereof, together with all amendments and supplements thereto.

(b) Each Lease is in full force and effect and valid and binding on Company, and the Company holds a valid and enforceable leasehold interest in the Leased Real Property to

which each Lease relates, subject to proper authorization and execution of such Lease by any other party thereto and the application of any bankruptcy Laws, other similar Laws affecting creditors' rights and general principles of equity affecting the availability of specific performance and other equitable remedies. The Company is not, and to the Seller's knowledge, no other party is, in material default under any Lease. The Company, and, to the knowledge of Seller, each of the other parties thereto, has performed in all material respects all material obligations required to be performed by it under each Lease. The Company has not collaterally assigned or granted any security interest in any Leased Real Property or any interest therein. With respect to each Leased Real Property, the Company has no knowledge of or has not received any written notice of, any pending or contemplated rezoning, eminent domain or condemnation proceeding affecting any Leased Real Property.

(c) The Leased Real Property and the Owned Real Property (collectively, the "Real Property") constitute all of the real property used in or necessary to conduct the Business and all railroad rights-of-way are contiguous and continuous. The Company has such consents, easements, rights-of-way, permits and licenses as are necessary and sufficient to conduct the Business. There are no violations or alleged violations of any Law with respect to the Real Property, including zoning Law, which would, individually or in the aggregate, be reasonably likely to have a Material Adverse Effect. There are no material inquiries, complaints, proceedings or investigations (excluding routine, periodic inspections) pending regarding compliance of the Real Property with any such Law. All material improvements located on, under, over or within the Real Property (i) are in good operating condition and repair and are structurally sound and free of any material defects and (ii) are in material compliance with building, zoning and other applicable land use Law for their current use, except where the failure to be so, individually or in the aggregate, would not be reasonably likely to have a Material Adverse Effect.

SECTION 3.11 Intellectual Property.

(a) Section 3.11(a) of the Disclosure Schedules sets forth a complete, correct and current list of all (i) Company IP Registrations, and (ii) any material unregistered trademarks included in the Company Intellectual Property, and (iii) all other Company Intellectual Property material to the Company's business as currently conducted (the "Listed Intellectual Property"). All Listed Intellectual Property is in compliance with all Laws, and, to the extent issued, are valid, enforceable, and in good standing.

(b) The Company has taken all reasonable and necessary steps to maintain and enforce the Company Intellectual Property and to preserve the confidentiality of all trade secrets included in the Company Intellectual Property.

(c) The Company owns or has a valid and enforceable license or otherwise has the right to use all Listed Intellectual Property used in the Business as currently conducted and such use and the conduct of the Business have not infringed, violated or conflicted with, or misappropriated the rights of any third party. To the knowledge of the Seller, no third party is infringing, violating or misappropriating any Listed Intellectual Property in any material respect. The Company has taken commercially reasonable steps to maintain the confidentiality of its Confidential Information in connection with the Business. Except as set forth on Section 3.11(c) of the Disclosure Schedules, all Listed Intellectual Property (and as of the Closing the Transferred

IP) is owned solely and exclusively by the Company, free and clear of all Liens, other than Permitted Liens, and free and clear of any rights of the Seller or its other Affiliates (other than the Company). There has not been communicated to the Seller or its Affiliates the threat of any claim that the holder of such Listed Intellectual Property or the Company is violating or infringing any Intellectual Property right of any third-party, or challenging the Company's ownership or use of, or the validity or enforceability of, any of the Listed Intellectual Property.

(d) Section 3.11(d) of the Disclosure Schedules contains a correct, current and complete list of all Company IP Agreements which are material to the Business, including those agreements under which: (i) the Company is a licensee or has licensed or otherwise has been granted any rights, immunity from suit or covenant not to sue with respect to any Intellectual Property by any Person (other than shrink-wrap, click-wrap, and similar licenses for commercially available off-the shelf software); and (ii) any Person is a licensee or has licensed or otherwise has been granted any rights, immunity from suit or covenant not to sue with respect to any Intellectual Property by the Company. Each Company IP Agreement is valid and binding on the Company in accordance with its terms and is in full force and effect. Neither the Company nor any other party thereto is, or is alleged to be, in breach of or default under, or has provided or received any notice of breach of, default under, or intention to terminate (including by non-renewal), any Company IP Agreement.

SECTION 3.12 Information Technology; Privacy and Security.

(a) In connection with their collection, storage, transfer (including, without limitation, any transfer across national borders) and/or use of any personally identifiable information from any individuals, including, without limitation, any customers, prospective customers, employees and/or other third parties (collectively "Personal Information"), the Company is and has been, in compliance with all applicable laws in all relevant jurisdictions, the Company's privacy policies and the requirements of any contract or codes of conduct to which the Company is a party. The Company has commercially reasonable physical, technical, organizational and administrative security measures and policies in place to protect all Personal Information collected by it or on its behalf from and against unauthorized access, use and/or disclosure. The Company is and has been in compliance in all material respects with all laws relating to data loss, theft and breach of security notification obligations.

(b) The IT Assets (A) are in operating order and are fulfilling the purposes for which they were acquired, licensed or established in an efficient manner without material downtime or errors, (B) have not, in the past five (5) years, experienced any material errors and/or breakdowns, (C) to the Seller's knowledge, do not contain Unauthorized Code, (D) have not experienced any Security Incidents or Security Breaches, and (E) are considered by the Company to effectively perform all information technology operations necessary to conduct the businesses of the Company as it is currently conducted. The Company has commercially reasonable disaster recovery plans, technologies, procedures and facilities for their respective IT Assets and have taken reasonable steps to maintain and safeguard the IT Assets from Security Incidents or Security Breaches. In the past five (5) years, the IT Assets or disaster recovery plans, technologies, procedures or facilities have not experienced a shutdown for a continuous period of twenty-four (24) hours or more.

(c) Except as set forth on Section 3.12(c) of the Disclosure Schedules, the Company has not experienced any material Security Breaches or material Security Incidents affecting Personal Information, and the Company is not aware of any written notices or complaints from any Person regarding such a Security Breach or material Security Incident. Except as set forth on Section 3.12(c) of the Disclosure Schedules, the Company has not received any written complaints, claims, demands, inquiries or other notices, including a notice of investigation, or any other written notices from any Person (including any Governmental Entity or self-regulatory authority or entity) (A) regarding the Company's collection, processing, use, storage, transfer or disclosure of Personal Information, (B) alleging that the Company's collection, processing, use storage, security, transfer or disclosure of Personal Information is in violation of any applicable Privacy Laws, Privacy Policies or Privacy Contracts or otherwise constitutes an unfair, deceptive, or misleading trade practice, or (C) regarding the Company's failure to comply in any material respect with any applicable Privacy Laws. The Company maintains processes reasonably intended to respond to complaints received alleging violation of an individual's rights in Personal Information in the possession or under the control of the Company.

(d) The Company has always been in material compliance with (i) all applicable Privacy Laws, (ii) all applicable Privacy Policies, and (iii) all applicable Privacy Contracts, and, have collected, processed, stored, maintained, secured, shared, and otherwise used Personal Information in compliance with all Privacy Laws and with appropriate disclosures and consents as required to provide the Personal Information to third parties in the course of the businesses of the Company and the Subsidiaries. The Company has delivered to the Buyer true, correct and complete copies of the effective Privacy Policy. The Company has a valid and legal right (whether contractually or otherwise) to access or use all Personal Information that is accessed and used by or on behalf of the Company in connection with the use and/or operation of any of their products, services or businesses.

(e) The Company has implemented reasonable physical, technical and administrative safeguards designed to protect Personal Information in their possession or control from material unauthorized access by any Person, including the Company's employees, contractors, and vendors, and to ensure material compliance in all respects with all applicable Privacy Laws, Privacy Contracts and Privacy Policies.

(f) The Company has a valid and legal right (whether contractually, by applicable Law or otherwise) to access or use all Personal Information and any other information of any Person that is accessed and used by or on behalf of the Company in connection with the sale, use and/or operation of their products, services and businesses. Neither the execution, delivery or performance of this Agreement, nor the consummation of any of the transactions contemplated by this Agreement (including any transfer of any Personal Information from the Company to the Seller), will violate in any material respect any Privacy Policies, Privacy Contracts or any applicable Law (including any Information Laws) governing the Company's collection, use, access to, transmission, disclosure, alteration or handling of Personal Information, or result in or give rise to any right of termination or other right to impair or limit the Company's rights to own or use any Personal Information used in or necessary for the conduct of its businesses.

(g) The Company has not received any, nor to the Seller's knowledge are there any pending, written complaints, claims, demands, inquiries, proceedings, or other notices,

including any notices of any investigation or other legal proceedings, regarding the Company, initiated by (i) any Person; (ii) any Governmental Entity including the FTC, a state attorney general, data protection authority or similar state official, or a supervisory authority; or (iii) any self-regulatory authority or entity, alleging that any activity of the Company: (A) is in violation of any applicable Information Laws, (B) is in violation of any Privacy Contracts, (C) is in violation of any Privacy Policies, (D) is otherwise in violation of any Person's privacy, personal or confidentiality rights, or (E) otherwise constitutes an unfair, deceptive, or misleading trade practice.

(h) The execution, delivery, or performance of this Agreement and the consummation of the transactions contemplated by this Agreement will not violate any applicable Privacy Laws, Privacy Policies or Privacy Contracts or result in or give rise to any right of termination or other right to impair or limit the Company's rights to own or use any Personal Information used in or necessary for the conduct of the businesses of the Company.

SECTION 3.13 Licenses and Permits. The Company holds all licenses, permits, variances, certifications, exemptions, franchises, authorizations and approvals (the "Licenses and Permits") of all Governmental Entities necessary to own, lease or operate their respective properties and to permit the continued lawful conduct of the Business in the manner now conducted and all Licenses and Permits are valid and in full force and effect. The operations of the Company is being, and since December 31, 2018 has been, conducted in a manner that complies with the terms or conditions of the Licenses and Permits. The consummation of the transactions contemplated by this Agreement will not result in the cancellation, modification, termination or suspension of any License and Permit.

SECTION 3.14 Compliance with Law.

(a) Except as set forth on Section 3.14(a) of the Disclosure Schedules, the Company is and for the past five (5) years has been in compliance in all material respects with all applicable Laws of all applicable Governmental Entities.

(b) Except as set forth in Section 3.14(b) of the Disclosure Schedules, the Company (x) has not received (i) any citations, complaints, compliance schedules, or other similar enforcement orders, (ii) notice of a requirement to pay or paid any fines or penalties to, or (iii) any other notice from, any Governmental Entity, and (y) is not in default under, and no condition exists (whether covered by insurance or not) that with or without notice or lapse of time or both would constitute a default under, or breach or violation of, any Law or permit applicable to the Company. The Company is not subject to any order, injunction, judgment, award, decree, ruling, writ, or assessment from any arbitrator or any Governmental Entity.

SECTION 3.15 Litigation. Except as set forth on Section 3.15 of the Disclosure Schedules, there are no Actions pending or, to the knowledge of the Seller, threatened, of any nature, brought by or against the Seller (to the extent related to the Business) or the Company, the assets, properties or rights of the Company or the transactions contemplated by this Agreement, and there are no outstanding Governmental Orders and no unsatisfied judgments, penalties or awards against or affecting the Company or any of its properties or assets.

SECTION 3.16 Contracts.

(a) Except as set forth on Section 3.16(a) of the Disclosure Schedules (such contracts disclosed therein, the “Material Contracts”), The Company is not a party to any written:

(i) bonus, pension, profit sharing, retirement or other form of deferred compensation plan, labor or collective bargaining agreement or other Contract with any union or other employee representative body, other than as described in Section 3.17 of the Disclosure Schedules relating thereto;

(ii) Contract for the employment of any officer, individual employee or other person on a full-time or contract for the retention of an individual on a consulting basis providing for base compensation in excess of [REDACTED] per year;

(iii) agreement or indenture relating to Indebtedness, mortgaging, pledging or otherwise placing a Lien (other than Permitted Liens) on any assets of the Company;

(iv) guaranty of any obligation for borrowed money or other material guaranty involving more than [REDACTED];

(v) lease, sublease or agreement (including with respect to Real Property, rail lines, or rail segments) that individually (A) the breach, nonperformance, cancellation, termination, forfeiture, or nonrenewal of which would materially impact the ability of the Company to operate its business as currently conducted, or (B) under which it is lessee of, or holds or operates any Personal Property owned by any other party, for which the annual rental, or rental due over the remaining term of the agreement, exceeds [REDACTED];

(vi) lease or agreement under which it is lessor of or permits any third party to hold or operate any of its Personal Property, for which the annual rental, or rental due over the remaining term of the agreement, exceeds [REDACTED];

(vii) Contract or group of related contracts with the same party (other than standard purchase orders or pricing agreements or programs) for the purchase by the Company of products or services which provide for annual payments, or payment due over the remaining term of the contract, in excess of seventy five thousand dollars (\$75,000);

(viii) Contract or group of related contracts with a customer (other than standard purchase orders or pricing agreements or programs) that provide for annual revenues, or payment due over the remaining term of the contract, to the Company in excess of [REDACTED];

(ix) Contract or group of related contracts with the same party or customer, that cannot be cancelled by the Company without penalty or without more than ninety (90) days’ notice;

(x) agreement relating to any business acquisition or disposition by the Company, related to the sale or purchase of stock, assets or any real property since January 1, 2017;

(xi) agreements or Contracts that relate to any acquisition of a business by the Company pursuant to which the Company has any material continuing “earn out” or other contingent or fixed payment obligations;

(xii) Contract which (A) prohibits or purports to prohibit the Company from freely engaging in business anywhere in the world, (B) contains any restrictions pursuant to “paper barriers” “interchange commitments” (as such term is generally understood in the railroad industry), that are applicable to the Company, (C) contains any restrictions on soliciting customers or suppliers anywhere in the world, or (D) contains any restrictions on soliciting or hiring any employee or consultant, other than restrictions that are part of the terms and conditions of any “requirements” or similar agreement under which the Company has agreed to procure goods or services exclusively from any Person;

(xiii) Contracts that relate to transportation or transportation related activities (other than tariffs) pursuant to which the Company generated in excess of [REDACTED] during the prior fiscal year;

(xiv) agreements between or among the Company on the one hand and Seller or any Affiliate of Seller (other than the Company) on the other hand;

(xv) Contracts that are settlement or similar contracts with any Governmental Entity or that are any other settlement or similar contracts pursuant to which the Company is obligated to pay consideration after the date of this Agreement in excess of [REDACTED];

(xvi) Contracts with any Governmental Entity;

(xvii) any Contract that prohibits the pledging of the equity interests of the Company or prohibits the issuance of guarantees by the Company;

(xviii) any Contract that grants any right of first refusal or right of first offer or similar right with respect to the Company to third parties or that limits or purports to limit the ability of the Company to pledge, sell, transfer or otherwise dispose of any material amounts of assets other than in the ordinary course of business; and

(xix) any other Contracts, agreements or understandings of the Company that is material to or critical to the Business.

(b) With respect to each Material Contract: (i) such contract is a valid and binding agreement of the Company, enforceable in accordance with its terms, except as the enforcement thereof may be limited by bankruptcy Laws, other similar Laws affecting creditors’ rights and general principles of equity affecting the availability of specific performance and other equitable remedies; (ii) the Company is not in breach or default in any material respect, nor has the Company taken any action which, with notice or lapse of time, would constitute a breach or

default in any material respect, or permit termination, material modification or acceleration, as applicable, under such contract; and (iii) to the knowledge of the Seller, no other party is in breach or default in any material respect under such contract. The Company has not received written notice from any other party to a Material Contract that such other party intends to terminate, not renew, or renegotiate in any material respects the terms of, any such Material Contract.

SECTION 3.17 Employee Plans.

(a) Except as set forth on Section 3.17(a) of the Disclosure Schedules, none of the Seller or any of its ERISA Affiliates or the Company maintains, sponsors, is a party to, participates in, has a commitment to create or has any liability or contingent liability with respect to: (i) any “employee welfare benefit plan” or “employee pension benefit plan” (as those terms are defined in sections 3(1) and 3(2), respectively, of ERISA), other than a “multiemployer plan” (as defined in section 3(37) of ERISA); (ii) any retirement or deferred compensation plan, incentive compensation plan, stock plan, retention plan or agreement, unemployment compensation plan, vacation pay, change in control, severance pay, bonus or benefit arrangement, insurance or hospitalization program, flexible benefit plan, cafeteria plan, dependent care plan or any fringe benefit arrangements for any current or former employee, director, consultant or agent, whether pursuant to contract, arrangement, custom or informal understanding, which does not constitute an employee benefit plan (as defined in section 3(3) of ERISA); or (iii) any employment agreement or consulting agreement (collectively referred to as the “Plans”). Section 3.16(a) of the Disclosure Schedules separately indicates each Plan that is sponsored or maintained by the Company solely for the benefit of Employees (or their dependents and beneficiaries) (each such Plan a “Company Benefit Plan”).

(b) A true and correct copy of each of the Plans, and all contracts relating thereto, or to the funding thereof, including, without limitation, all trust agreements, insurance contracts, administration contracts, investment management agreements, subscription and participation agreements and recordkeeping agreements, each as in effect on the date hereof, has been supplied to the Buyer. In the case of any Plan which is not in written form, the Buyer has been supplied with an accurate description of such Plan as in effect on the date hereof. A true and correct copy of the most recent annual report, actuarial report, accountant’s opinion of the plan’s financial statements, summary plan description and Internal Revenue Service determination letter with respect to each Plan, to the extent applicable, and a current schedule of assets (and the fair market value thereof assuming liquidation of any asset which is not readily tradable) held with respect to any funded Plan has been supplied to the Buyer, and there have been no material changes in the financial condition in the respective plans from that stated in the annual reports and actuarial reports supplied.

(c) Each of the Plans that is intended to be qualified under Section 401(a) of the Code has received a favorable determination letter from the Internal Revenue Service or is a prototype plan that is entitled to rely on an opinion letter issued by the Internal Revenue Service to the prototype plan sponsor regarding qualification of the form of the prototype plan, and no event has occurred which will or could give rise to disqualification of any such plan under such section. The Plans comply in form and in operation in all material respects with their terms and in all material respects with the requirements of the Law, including the Code and ERISA, and no event has occurred which will or could cause any such Plan to fail to comply with such

requirements and no notice has been issued by any governmental authority questioning or challenging such compliance. All Plans which are subject to section 409A of the Code comply with section 409A in form and have been administered in accordance with their terms and section 409A of the Code.

(d) None of the assets of any Plan are invested in employer securities or employer real property. There have been no “prohibited transactions” (as described in section 406 of ERISA or section 4975 of the Code) with respect to any Plan and none of the Seller or any of its ERISA Affiliates or the Company has engaged in any prohibited transaction. With respect to the Plans, all material required contributions have been made or properly accrued. No Plan is subject to Title IV of ERISA.

(e) There have been no acts or omissions by the Seller or any of its ERISA Affiliates or the Company which have given rise to or may give rise to interest, fines, penalties, taxes or related charges under section 502 of ERISA or Chapters 43, 47, 68 or 100 of the Code for which the Seller or any of its ERISA Affiliates or the Company may be liable or under Section 409A of the Code for which the Seller, any of its ERISA Affiliates or the Company or any participant in any Plan that is a nonqualified deferred compensation plan (within the meaning of section 409A of the Code) may be liable. The Company, and each Plan that is a “group health plan” as defined in Section 733(a)(1) of ERISA (a “Health Plan”) (I) is currently in compliance in all material respects with the Patient Protection and Affordable Care Act, Pub. L. No. 111-148 (“PPACA”), the Health Care and Education Reconciliation Act of 2010, Pub. L. No. 111-152 (“HCERA”), and the regulations and guidance issued thereunder (collectively, with PPACA and HCERA, the “Healthcare Reform Laws”), and (II) has been in compliance in all material respects with all applicable Healthcare Reform Laws since March 23, 2010. No event has occurred, and no conditions or circumstance exists, that would reasonably be expected to subject the Company, or any Health Plan, to material penalties or excise taxes under Sections 4980D, 4980H, or 4980I of the Code or any other provision of the Healthcare Reform Laws.

(f) Neither consummation of the transactions contemplated by this Agreement nor this Agreement (whether separately or together with any other action) will accelerate the time of vesting or the time of payment, or increase the amount, of compensation due to any current or former director, officer or employee of the Seller or any of its ERISA Affiliates or the Company. None of the payments contemplated by the Plans (including the Bonus Payments) would, in the aggregate, constitute excess parachute payments (as defined in section 280G of the Code (without regard to subsection (b)(4) thereof)) or would exceed the amount deductible pursuant to section 162(m) of the Code. None of the Seller or any of its ERISA Affiliates or the Company is a nonqualified entity within the meaning of section 457A of the Code.

(g) There are no actions, suits or claims (other than routine claims for benefits) pending or threatened involving any Plan or the assets thereof and no facts exist which could give rise to any such actions, suits or claims (other than routine claims for benefits). Each Plan which constitutes a “group health plan” (as defined in section 607(i) of ERISA or section 4980B(g)(2) of the Code), including any plans of current and former affiliates which must be taken into account under sections 4980B and 414(t) of the Code or sections 601-608 of ERISA, have been operated in compliance with applicable law, including the continuation coverage requirements of section 4980B of the Code and section 601 of ERISA and the portability and nondiscrimination

requirements of sections 9801 and 9802 of the Code and sections 701-707 of ERISA, to the extent such requirements are applicable. None of the Seller or any of its subsidiaries or the Company has any liability or contingent liability for providing, under any Plan or otherwise, any post-retirement medical or life insurance benefits, other than statutory liability for providing group health plan continuation coverage under Part 6 of Title I of ERISA and section 4980B of the Code or applicable state law. None of the Company Benefit Plans is a multiple employer pension plan or a multiple employer welfare arrangement (within the meaning of section 3(40) of ERISA). None of the Seller nor any of its ERISA Affiliates nor the Company contributes to, has contributed to, or has any liability or contingent liability with respect to a multiemployer plan.

(h) Each Plan which constitutes a “group health plan” (as defined in section 607(i) of ERISA or section 4980B(g)(2) of the Code), including any plans of current and former affiliates which must be taken into account under sections 4980B and 414(t) of the Code or sections 601-608 of ERISA, have been operated in compliance with applicable law, including the continuation coverage requirements of section 4980B of the Code and section 601 of ERISA and the portability and nondiscrimination requirements of sections 9801 and 9802 of the Code and sections 701-707 of ERISA, to the extent such requirements are applicable.

(i) The Company is in compliance in all material respects with the requirements of the Railroad Retirement Act of 1974 and the applicable regulations of the United States Railroad Retirement Board.

SECTION 3.18 Insurance. Prior to the date hereof, the Seller has furnished to the Buyer a true, complete and accurate original or copy of each policy or other certificate of title, liability, fire, casualty, business interruption, workers’ compensation and other forms of insurance insuring the Business, the Company and its assets and operations (the “Existing Policies”). Section 3.18 of the Disclosure Schedules sets forth a list, as of the date hereof, of all such Existing Policies. All the Existing Policies (i) are in full force and effect, (ii) have no outstanding premiums due thereunder that have not been paid and (iii) the Company is not in material default with respect to its obligations under any such insurance policy. Except as set forth on Section 3.18 of the Disclosure Schedules, the Company does not maintain any self-insurance or co-insurance programs. Except as set forth in Section 3.18 of the Disclosure Schedules, there are no claims related to the Business pending under any such insurance policies as to which coverage has been questioned, denied or disputed or in respect of which there is an outstanding reservation of rights.

SECTION 3.19 Transactions with Directors, Officers and Affiliates. Except as set forth on Section 3.19 of the Disclosure Schedules, the Company is not a party to any Contract, agreement or arrangement with the Seller or any of the directors, executive officers or stockholders of the Seller, the Company or any Affiliate or family member of any of the foregoing Persons. There is no Indebtedness owed to the Company by any employee, consultant, officer or director of the Seller or of the Company, other than salary advances and advances of travel expenses in the ordinary course of business consistent with past practice.

SECTION 3.20 Labor Matters.

(a) The Company is not a party to any collective bargaining agreement, and, to the knowledge of the Seller, no union organizing efforts are underway with respect to employees

of the Company. Except as set forth on Section 3.20(a) of the Disclosure Schedules: (a) there are no material unfair labor practice charges, material unfair labor practice complaints, material labor arbitrations or material labor grievances pending, or, to the knowledge of the Seller, threatened, against the Company; (b) there is no strike, slowdown, work stoppage or lockout, or, to the knowledge of the Seller, threat thereof, by or with respect to any employees of the Company; and (c) there are no material charges, complaints, suits or proceedings, or, to the knowledge of the Seller, threat thereof, against the Company alleging breach or violation in any material respect of any labor or employment Law.

(b) Section 3.20(b) of the Disclosure Schedules sets forth a true, correct and complete list of each Employee of, and independent contractor providing services to, the Company and in the case of each such employee and contractor, the following information, if applicable, as of the date hereof: (a) title or position; (b) date of hire or commencement of service; (c) work location; (d) whether full-time or part-time and whether exempt or non-exempt; (e) whether covered by the terms of a collective bargaining or similar agreement or an employment or consulting agreement; (f) whether absent from active employment or service and if so, the date such absence commenced, the reason for such absence and the anticipated date of return to active employment or active service; (g) annual salary or annual consulting payments, as the case may be, and, if applicable, target bonus and other incentive compensation, such salary and other compensation data to include current information and such information for the prior 12 month period; and (h) accrued unused vacation, sick days and other paid days off. None of such employees providing services to the Company is a leased employee.

(c) The Company has been and is in compliance with (a) all applicable Laws respecting employment and employment practices, terms and conditions of employment, collective bargaining, disability, immigration, health and safety, wages, hours and benefits, harassment, non-discrimination in employment, workers' compensation, unemployment compensation and the collection and payment of withholding or payroll Taxes and similar Taxes and (b) all obligations of the Company under any employment agreement, consulting agreement, severance agreement, collective bargaining agreement or any similar employment or labor-related agreement or understanding. All independent contractors and consultants providing personal services to the Company have been properly classified as independent contractors for purposes of all Laws, including Laws with respect to employee benefits, and all Employees have been properly classified under the Fair Labor Standards Act and similar state laws.

(d) A Form I-9 has been completed and retained with respect to each such current Employee and, where required by law, former Employees. The Company has not been the subject of any audit or other action, suit, proceeding, claim, demand, assessment or judgments nor, to Sellers' knowledge, has the Company been the subject of an investigation, inquiry or other any audit or other action, suit, proceeding, claim, demand, assessment or judgments from the U.S. Department of Homeland Security, including the Immigration and Customs Enforcement, (or any predecessor thereto, including the U.S. Customs Service or the Immigration and Naturalization Service) or any other immigration-related enforcement proceeding.

(e) There is not currently pending, and to the knowledge of the Seller, in the last five (5) years, there have not been any allegations of sexual harassment or other sexual misconduct made against any officer or executive of the Company, (ii) in the past five (5) years,

the Company has not entered into a settlement agreement to resolve any allegations of sexual harassment or other sexual misconduct by any of its officers or executives, and (iii) Seller is not aware of any circumstances or conduct by any officer or executive of the Company that would lead to material liability related to allegations of sexual harassment or other sexual misconduct.

SECTION 3.21 Environmental Matters. Except as set forth on Section 3.21 of the Disclosure Schedules:

(a) The Company is, and for the last five (5) years has been, in compliance in all material respects with all applicable Environmental Laws.

(b) The Company has obtained and possesses all material Environmental Permits required by Environmental Laws to operate its facilities and to conduct its business and is, and for the last five (5) years has been, in material compliance with such Environmental Permits, and all such Environmental Permits are valid and in good standing in all material respects.

(c) the Company has not received, since January 1, 2017, any written notice of any material violation of or material liability arising under Environmental Laws, including with respect to any material investigatory, remedial or corrective obligation, relating to the Company or its facilities and arising under Environmental Laws, or that the Company is a potentially responsible party for such obligation, the subject of which is unresolved.

(d) There are no material suits or proceedings pending or threatened against the Company, pursuant to Environmental Laws.

(e) The Company is not subject to any material judgment, order or decree of any court or other Governmental Entity, or any material settlement or consent agreement, that is outstanding and was issued or entered pursuant to Environmental Laws.

(f) In the past five (5) years, the Company has not caused or permitted any release or stored, treated, disposed of, arranged for or permitted the disposal of, transported, handled, manufactured, or distributed any regulated substance so as to give rise to material liability arising under Environmental Laws.

(g) No property or facility currently or, to the knowledge of the Seller, formerly owned, leased, operated, or used by the Company is listed or proposed for listing on the National Priorities List pursuant to the Comprehensive Environmental Response, Compensation and Liability Act or on any similar state list of sites actually or potentially requiring investigation, corrective action, or remediation.

(h) All environmental assessment, investigation, response and remedial action reports for any property currently or, to the knowledge of the Seller, formerly owned, leased, or operated by the Company that are in the possession or reasonable control of the Company have been made available to Buyer, including all agreements containing unexpired (or expired with claims outstanding) environmental indemnities. To the knowledge of the Seller, all material issues identified by any environmental assessment, investigation, response and remedial action reports for any property currently or, to the knowledge of the Seller, formerly owned, leased, or operated

by the Company that was prepared during the last five (5) years are set forth on Section 3.21 of the Disclosure Schedules.

SECTION 3.22 Brokers. No broker, investment banker, financial advisor or other Person is entitled to any broker's, finder's, financial advisor's or other similar fee or commission in connection with the transactions contemplated by this Agreement based upon arrangements made by or on behalf of the Seller or the Company.

SECTION 3.23 International Trade Matters. The Company is, and since January 1, 2016 has been, in compliance with and has not been in violation of all applicable International Trade Laws. The Company has not received any written or, threatened order, notice, or other communication from any Governmental Entity of any actual or potential violation or failure to comply with any International Trade Law.

SECTION 3.24 Absence of Unlawful Payments. Neither the Company, nor any director or officer of the Company nor, any employee, agent or other Person acting on behalf of the Company: (a) has used any corporate or other funds for unlawful contributions, payments, gifts or entertainment, or offers or payment of anything of value; made any unlawful offers or expenditures relating to political activity to officials or employees of any Governmental Entity or to other Persons or established or maintained any unlawful or unrecorded funds; (b) made any direct or indirect unlawful offer or payment of anything of value to any official or employee of any Governmental entity or violated any provision of the Foreign Corrupt Practices Act or any applicable anti-corruption laws; or (c) has accepted or received any unlawful contributions, payments, gifts or expenditures, or offers or payments of anything of value.

SECTION 3.25 Condition of Track and Bridges. True and complete copies of all periodic Track and bridge inspections and exemption reports in the possession or under the control of the Company or the Company's agents describing the condition of all of the Track and bridges owned or operated by the Company have been provided to the Buyer. All of such Track and bridges are in good and safe operating condition, subject to ordinary wear and tear, and are usable in the ordinary course of business consistent with past practice, except as otherwise indicated on Section 3.25 of the Disclosure Schedules (specified by mile posts). All of the Track and bridges owned or operated by the Company are maintained and operated in material compliance with all applicable Laws, requirements of grants, loan documents or any other contracts, except as otherwise indicated on Section 3.25 of the Disclosure Schedule.

SECTION 3.26 Grants. Section 3.26 of the Disclosure Schedules attached hereto contains an accurate and complete list of all Federal and state grants (the "Grants") received or to be received by the Company and includes (a) the original amount of each Grant; and (b) with respect to each such Grant: (i) the funds received to date, and (ii) remaining amounts which may be received in the future and the basis for such future payment(s). Except as set forth on Section 3.26 of the Disclosure Schedules, all conditions precedent to the receipt of funds under such Grants, including future payments, have been satisfied in full. True, correct and complete copies of each Grant and any submissions, applications, notices, and/or other correspondence related to any Grant, including all amendments thereto, have been furnished to the Buyer.

SECTION 3.27 Customers and Suppliers. Section 3.27 of the Disclosure Schedules sets forth a list of the twenty (20) largest customers (the “Top Customers”) as measured by the annual carloads as of December 31, 2018 and the ten (10) largest suppliers of the Company (the “Top Suppliers”), as measured by the dollar amount of payments to suppliers or purchases therefrom, during the twelve (12) month period ended December 31, 2018, in each case showing the applicable carloads and purchases by and payments to the Company from and to each such supplier and customer during such periods. Since the date of the Balance Sheet, no Top Customer or Top Supplier has terminated its relationship with the Company, and no such customer or supplier has notified the Company in writing or, to the knowledge of the Seller, orally, that it (a) intends to terminate its relationship with the Company or (b) will otherwise materially and adversely modify its business relationship with the Company. There have been no material disputes or controversies with any Top Customer or Top Supplier.

ARTICLE 4. REPRESENTATIONS AND WARRANTIES OF THE BUYER.

The Buyer hereby represents and warrants to the Seller as follows:

SECTION 4.1 Corporate Organization. The Buyer is a limited liability company duly organized, validly existing and in good standing under the Laws of the state of its formation and has all necessary company power and authority to own its properties, rights and assets and to conduct its business as now conducted and is duly licensed or qualified to do business as a foreign company and is in good standing in each jurisdiction in which the character of the properties, rights and assets owned, licensed or leased by it or the nature of the business conducted by it makes such licensing or qualification necessary or desirable, except where the failure to be so licensed or qualified and in good standing would not, individually or in the aggregate, materially impair the ability of the Buyer to perform any of its obligations under this Agreement.

SECTION 4.2 Authorization and Validity. The Buyer has the requisite power and authority to enter into and deliver this Agreement and the Ancillary Agreements to which the Buyer is a party, to carry out its obligations hereunder and thereunder and to consummate the transactions contemplated hereby and thereby. The execution and delivery by the Buyer of this Agreement and the Ancillary Agreements and the performance by the Buyer of its obligations hereunder and thereunder have been duly authorized by all necessary corporate action by the board of directors of the Buyer, and no other corporate proceedings on the part of the Buyer are necessary to authorize such execution, delivery and performance. This Agreement and the Ancillary Agreements have been duly executed and delivered by the Buyer and, assuming the due authorization, execution and delivery of this Agreement and the Ancillary Agreements by the other parties thereto, this Agreement and the Ancillary Agreements constitute the Buyer’s valid and binding obligation enforceable against the Buyer in accordance with its terms.

SECTION 4.3 No Conflict or Violation. The execution, delivery and performance by the Buyer of this Agreement the Ancillary Agreements to which it is a party and the transactions contemplated hereby and thereby do not and will not (i) violate or conflict with any provision of the Certificate of Incorporation or By-laws of the Buyer, (ii) violate any order, judgment or decree of any Governmental Entity applicable to the Buyer or (iii) violate, conflict with or result in a breach of or constitute (with due notice or lapse of time or both) a default, termination or right of termination under any contract, lease, loan agreement, mortgage, security

agreement, trust indenture or other agreement or instrument to which the Buyer is a party or by which it is bound or to which any of its properties, rights or assets is subject, or result in the acceleration of any Indebtedness created thereunder or give rise to a right thereunder to require any payment to be made by the Buyer, or result in the creation or imposition of any Lien upon any of the assets, properties or rights of the Buyer, except in the cases of clauses (ii) and (iii), where the violation, breach, conflict, default, acceleration or failure to give notice would not have a material adverse effect on the Buyer's ability to consummate the transactions contemplated hereby.

SECTION 4.4 Consents and Approvals. Neither the execution and delivery of this Agreement and the Ancillary Agreements to which the Buyer is a party, by the Buyer nor the consummation of the transactions contemplated hereby and thereby by the Buyer require any consent, waiver, approval, license, authorization or permit of, or filing with or notification to, any Person, except as set forth on Section 4.4 of the Disclosure Schedules.

SECTION 4.5 Brokers. No broker, investment banker, financial advisor or other Person is entitled to any broker's, finder's, financial advisor's or other similar fee or commission in connection with the transactions contemplated by this Agreement based upon arrangements made by or on behalf of the Buyer for which the Seller would be liable.

SECTION 4.6 Financial Ability. The Buyer will have at the Closing sufficient cash to enable it to pay the Purchase Price as and when it becomes due. Notwithstanding anything in this Section 4.6 or elsewhere in this Agreement to the contrary, the Buyer affirms that it is not a condition to the Closing or to any of its obligations under this Agreement that it obtains financing for or related to any of the transactions contemplated by this Agreement.

SECTION 4.7 Investment Representation; Independent Investigation.

(a) The Buyer is acquiring the Shares for its own account with the present intention of holding such securities for investment purposes and not with a view to, or for sale in connection with, any distribution of such securities in violation of any federal or state securities laws.

(b) The Buyer has conducted its own independent investigation, review and analysis of the Business, the results of operations, prospects, condition (financial and otherwise) and assets of the Company, and acknowledges that it has been provided adequate access to the personnel, properties, assets, premises, books and records, and other documents and data of the Company for such purpose. The Buyer acknowledges and agrees that: (i) in making its decision to enter into this Agreement and to consummate the transactions contemplated hereby, the Buyer has relied solely upon its own investigation and the express representations and warranties of the Seller set forth in Article 3 of this Agreement (including the related portions of the Disclosure Schedule); and (ii) none of Seller, the Company or any other Person has made any representation or warranty as to the Seller, the Company or this Agreement, except as expressly set forth in Article 3 of this Agreement (including the related portions of the Disclosure Schedule).

ARTICLE 5. COVENANTS OF THE SELLER.

The Seller hereby covenants as follows:

SECTION 5.1 Conduct of Business Before the Closing Date.

(a) During the period from the date of this Agreement to the Closing, except as otherwise expressly provided in this Agreement, the Seller shall cause the Company to conduct business only in the ordinary course consistent with past practice and in compliance in all material respects with applicable Laws. The Seller shall use its commercially reasonable efforts to maintain and preserve intact its assets, the present organization of the Company, the Business, keep available the services of the present officers and employees of the Company and preserve relationships with customers, suppliers, vendors, licensors, licensees, contractors, distributors and others having business dealings with the Company. Without limiting the generality of the foregoing and except as set forth on Section 5.1(a) of the Disclosure Schedules, from the date of this Agreement to the Closing, the Seller shall not permit the Company to, and the Company shall not, in each case, without the prior written consent of the Buyer:

(i) mortgage, pledge or subject to any material Lien, any material portion of its assets, except Permitted Liens;

(ii) sell, assign or transfer any of its tangible assets, other than sales in the ordinary course of business;

(iii) acquire by merger or consolidate with, or by purchase of a substantial portion of the assets or stock of, or by any other manner, any business or any Person or any division thereof;

(iv) adopt any plan of merger, consolidation, reorganization, liquidation or dissolution or filing of a petition in bankruptcy under any provisions of federal or state bankruptcy Law or consent to the filing of any bankruptcy petition against it under any similar Law;

(v) sell, assign, transfer or license any material Intellectual Property other than licenses granted to distributors in the ordinary course of business;

(vi) enter into any transactions with any Affiliate outside the ordinary course of business;

(vii) issue, sell or transfer any of its equity securities or warrants, options or other rights to acquire its equity securities or declare, set aside or pay any non-cash dividend or made any non-tax distribution with respect to its equity securities or redeemed, purchased or otherwise acquired any of its equity securities;

(viii) make any loan to, or enter into any other material transaction with, any of its Affiliates, the members of its board of Directors or its executive officers outside the ordinary course of business;

(ix) enter into any employment contract providing for a base salary in excess of [REDACTED] per year;

(x) make any material change in employment terms (including compensation) for any of its directors or executive officers or for any employees with base salary exceeding [REDACTED] per year (except for the grant and payment of any Transaction Bonus in connection with the consummation of the transactions contemplated by this Agreement);

(xi) adopt, amend or terminate any Plan or agree to provide any compensation or benefits pursuant to any plan, agreement or arrangement that would constitute a Plan if adopted;

(xii) make any material capital investment in, or any material loan to, any other Person other than as set forth in capital expenditure budgets of the Company;

(xiii) make any capital expenditures (or commitments therefor), except in the ordinary course of business;

(xiv) effect any split, recapitalization, reclassification or similar change in the capitalization of the Company;

(xv) effect any amendments to any charter, by-laws or other organizational document of the Company; or

(xvi) fail to comply with any Law or with its obligations under any Material Contract;

(xvii) fail to maintain its books and records in accordance with past practices;

(xviii) accelerate or decelerate the Company accounts receivables or accounts payable or otherwise operated the Business outside of the ordinary course of business as it relates to accounts receivable and accounts payable;

(xix) modify, amend, or terminate any insurance policies, except as provided for in Section 5.7;

(xx) enter into, modify, amend or terminate any Material Contract;

(xxi) take any action that would result in the cancellation, modification, termination or suspension of any License and Permit.

(xxii) stop payment on any debt, Taxes and other obligations when due;

(xxiii) create, incur, assume or guarantee or otherwise become responsible for any Indebtedness applicable to the Company, in each case, except in the ordinary course of business;

(xxiv) make any material change in any method of accounting or accounting practice of the Company, except as required by GAAP or applicable Law or as disclosed in the notes to the Financial Statements;

(xxv) change in its accounting policies or revenue recognition policies, including in applying ASC 606 – Revenue From Contracts With Customers;

(xxvi) change any Tax election or method of accounting or reporting for Tax purposes, file any amended Tax Return, enter into any closing agreement, settle any Tax claim, assessment or audit, surrender any right to claim a refund of Taxes, extend or waive the limitation period applicable to any Tax claim or assessment or changed accounting bases, practices, policies or procedures;

(xxvii) terminate operations on a rail line that may result in a liability to refund grant receipts; or

(xxviii) enter into any agreement or commit to do, or resolve, authorize or approve any of the foregoing, or any action or omission that would result in any of the foregoing.

(b) During the period from the date hereof to the Closing Date, Seller shall cause the Company to (i) prepare and timely file all Tax Returns (“Post-Signing Returns”) required to be filed (taking into account any valid extensions obtained in the ordinary course of business) in a manner consistent with the past practice of the Company, (ii) timely pay all Taxes due and payable, whether or not shown on such Post-Signing Returns, and (iii) promptly notify the Buyer of any written notice of Action pending against or with respect to the Company in respect of any material Tax matters (or any significant developments with respect to ongoing Actions in respect of such material Tax matters).

SECTION 5.2 Consents and Approvals.

(a) The Seller shall, and the Seller shall cause the Company to, timely make any required filings with, and use reasonable efforts to obtain requisite consents and approvals of, any Governmental Entity (other than the STB for which the Buyer shall solely be responsible for making filings and obtaining the requisite approvals, authorizations or exemptions therefrom, in accordance with Section 6.1(b) and subject to clause (b) below) with respect to the transactions contemplated hereby (including a request for early termination of the waiting period thereunder), and shall thereafter promptly respond to all requests received from such Governmental Entity for additional information or documentation; provided, that the Buyer shall not be required to commit to or effect, by consent decree, hold separate order, or otherwise, the sale, divestiture or disposition of such of its or its Affiliates’ assets or operations, and/or of the assets or operations of the Company, as is required to be sold, divested or disposed of, including entering into any agreement required to be entered into by any Governmental Entity in connection therewith, in order to obtain any required regulatory approval or to avoid the commencement of any Action seeking, and/or to avoid entry of, and/or to effect the dissolution of, any Governmental Order that would have the effect of materially delaying or prohibiting the consummation of the transactions contemplated hereby.

(b) As soon as practicable after the execution of this Agreement, but in no event later than thirty (30) calendar days thereafter, the Seller shall, and shall cause the Company to, at the cost and expense of the Seller, (i) use reasonable best efforts to obtain all necessary consents, waivers, exemptions, authorizations, orders and approvals of all Persons required in connection with the execution, delivery and performance by the Seller of this Agreement and the consummation of the transactions contemplated hereby including any third party consents under any Material Contract, if any, and execution of estoppel certificates by lessors under any Leased Real Property for which consent to transfer is necessary, if any, and (ii) diligently assist and cooperate with the Buyer in preparing and filing all documents required to be submitted by the Buyer to any Governmental Entity, including the STB, in connection with such transactions and in obtaining any consents, waivers, authorizations, orders or approvals of Governmental Entities that may be required to be obtained by the Buyer in connection with such transactions, which assistance and cooperation shall include timely furnishing to the Buyer all information concerning the Seller and the Company that counsel to the Buyer reasonably determines is required to be included in such documents or would be helpful in obtaining any such required consent, waiver, authorization or approval.

(c) The Buyer shall cooperate and use commercially reasonable efforts to assist the Seller in giving such notices and obtaining any consents and estoppel certificates; provided, however, that the Buyer shall have no obligation to give any guarantee or other consideration of any nature in connection with any such notice, consent or estoppel certificate or to consent to any change in the terms of any agreement or arrangement that the Buyer may deem adverse to the interests of the Buyer, the Company or the Business. The Seller shall keep the Buyer reasonably informed as to the status of obtaining any consents and estoppel certificates.

(d) The Seller and the Buyer agree that, in the event that any consent, approval or authorization is necessary or desirable to preserve for the Business or the Company, any right or benefit under any License and Permit, Contract or other arrangement to which the Seller or the Company is a party is not obtained prior to the Closing, the Seller will, subsequent to the Closing, cooperate with the Buyer and the Company in attempting to obtain such consent, approval or authorization as promptly thereafter as practicable. If such consent, approval or authorization cannot be obtained, the Seller shall use its best efforts to provide the Buyer or the Company, as the case may be, with the rights and benefits of the affected License and Permit, Contract or other arrangement for the term of such License and Permit, Contract or other arrangement, and, if the Seller provides such rights and benefits, the Buyer or the Company, as the case may be, shall assume the obligations and burdens thereunder.

SECTION 5.3 Access to Properties and Records. The Seller shall, and shall cause the Company to, (a) afford to the Buyer, and to the accountants, counsel, consultants and other representatives of the Buyer, upon reasonable prior notice access during normal business hours throughout the period prior to the Closing Date to all properties, assets, books, Contracts, commitments, title insurance policies currently in effect with respect to the Owned Real Property and files and records of the Company, (b) furnish to the Buyer and its representatives such financial, operating and other data and information related to the Company as Buyer or any of its representatives may reasonably request; and (c) instruct the representatives of the Seller and the Company to cooperate with the Buyer in its investigation of the Company, and, during such period, shall furnish promptly to the Buyer all other information concerning the Company and their

respective properties and personnel as the Buyer may from time to time reasonably request; provided, however, that any such access shall be conducted at a reasonable time and in such a manner as not to interfere unreasonably with the operations of the business of the Company and neither the Buyer nor its representatives shall perform intrusive environmental testing activities or otherwise disturb the Owned Real Property or Leased Real Property without the prior written consent of the Seller in each instance. Notwithstanding the foregoing, the Company shall be required to disclose any information to the Buyer or their authorized representatives if doing so would violate any Law to which the Company is subject.

SECTION 5.4 Commercially Reasonable Efforts. Upon the terms and subject to the conditions of this Agreement insofar as such matters are within the control of the Seller or the Company, the Seller shall use, and shall cause the Company to use, their commercially reasonable efforts to take, or cause to be taken, all actions, and to do, or cause to be done, all things necessary, proper or advisable consistent with applicable Law to consummate and make effective the transactions contemplated hereby on the Closing Date.

SECTION 5.5 Intellectual Property.

(a) Concurrent with or immediately after the Closing, the Seller shall, and shall cause its Affiliates to take all actions necessary to assign, transfer, convey and record in the name of the Company (or their designees) all of the Seller's or its Affiliates' right, title and interest in all Intellectual Property that is used primarily in the Business (collectively, the "Transferred IP"); provided, however, that (x) the Seller and its Affiliates hereby, effective as of the Closing, grant the Buyer and its Affiliates a non-exclusive, non-transferable license to use any Company trademarks for a transitional period of no greater than twelve (12) months after the Closing and (y) the Buyer shall indemnify and hold the Seller and its Affiliates harmless from and against any and all third-party claims, demands and liabilities (including but not limited to reasonable fees and expenses) resulting from the use by the Buyer of such trademarks pursuant to the license described in Section 5.5(a)(x), except to the extent (A) resulting from any action or omission of the Seller or any of its Affiliates or any breach or inaccuracy of any of the representations or warranties of the Seller in this Agreement or (B) relating to an allegation that such trademarks infringe the rights of any third party. The Seller agrees that as of the Closing Date, the Seller and its Affiliates shall not, directly or indirectly, (i) use, register or attempt to register any of the Transferred IP or (ii) contest the ownership or validity of the Transferred IP.

(b) At the Buyer's request, for one-hundred eighty (180) days after the Closing, the Seller will display on all of its and its Affiliates' websites and social media sites that reference the Business a mutually-agreed link to websites and social media sites of Buyer or its designee and a mutually-agreed statement about the transactions herein.

SECTION 5.6 Intercompany Arrangements.

(a) Prior to the Closing, the Seller shall cause any contract or arrangement that is disclosed in Section 3.19 of the Disclosure Schedules, other than those Contracts or arrangements set forth in Section 5.6 of the Disclosure Schedules, to be terminated or otherwise amended to exclude the Company as a party thereto.

(b) Immediately prior to the consummation of the Closing, the Seller shall contribute, or cause to be contributed, to the capital of the Company, the difference between (i) the intercompany Indebtedness owed by the Company to the Seller and its Affiliates as of the Closing and (ii) the intercompany Indebtedness owed by the Seller and its Affiliates to the Company as of the Closing, and all such intercompany Indebtedness shall cease to exist and be of no further force or effect.

(c) Prior to the Closing, all intercompany liabilities (other than those addressed in the preceding clauses (a) and (b)) owed to the Seller or its Affiliates, on the one hand, by the Company, on the other hand, shall be settled or otherwise eliminated, shall cease to exist and shall be of no further force or effect.

(d) If the Seller or any of its Affiliates receives any payment related to the Business after the Closing, the Seller agrees to promptly remit (or cause to be promptly remitted) such funds to the Buyer to the extent related to the Business. The Buyer shall have the right and authority, from and after the Closing, to collect for its own account all receivables of the Business and any of the receivables of the Company and to endorse with the name of the Seller any checks or drafts received with respect to any Closing Receivables.

SECTION 5.7 Insurance. The Seller shall not take any action or omit taking any action that would reasonably be expected to be adverse to the ability of the Company to have the benefit of the Existing Policies following the Closing. In addition, the Seller shall or shall cause the Company to notify the carriers under the Existing Policies of all matters of which the Seller has or obtains knowledge at or prior to Closing that would give rise to claims covered under the Existing Policies (with such notice to be given as soon as reasonably practicable upon obtaining such knowledge). From and after the Closing, the Seller and its Affiliates shall cooperate with and permit the Company to seek and obtain coverage under each of the Existing Policies for occurrences that took place prior to the Closing, and the Seller and its Affiliates shall not release, commute, buy-back, or otherwise eliminate the coverage available to the Company or the Business under any such Existing Policy.

SECTION 5.8 Risk of Loss. The risk of loss or damage by fire or other casualty to any Owned Real Property, any Leased Real Property or any other assets of the Company before Closing is assumed by the Seller. In the event that any Owned Real Property, Leased Real Property or any other assets of the Company shall suffer any such loss or damage, the Seller agrees to, at the Buyer's election, (i) repair the damage at its sole cost and expense before the Closing to the extent the insurance proceeds are available for such purpose, (ii) make an appropriate reduction in the Purchase Price based on a reasonable approximation of the cost of such repair as agreed by the parties or (iii) irrevocably assign to the Buyer the right to the proceeds of any insurances covering such fire, casualty or injury; provided, however, that in the case of (i) and (ii) in the preceding sentence, the Buyer shall assign to the Seller its rights or the rights of the Company, if any, to receive such proceeds up to the amount of costs incurred by Seller (in the case of clause (i)) or the amount of the reduction in Purchase Price (in the case of clause (ii)).

SECTION 5.9 Resignation of Officers and Directors. Effective as of the Closing Date, the Seller shall either cause the directors and officers of the Company to resign or remove them from such positions. The Seller shall deliver such written resignations to the Buyer.

SECTION 5.10 Non-Competition. (a) The Seller hereby agrees that the Seller shall not and shall not permit any of its Affiliates or any of their respective representatives to: (i) for a period of five (5) years after the Closing Date, directly or indirectly engage in, render services to, permit Seller's name to be used by others in connection with, or assist others in engaging in (as a partner, joint venturer, investor, shareholder, employee, consultant, agent or otherwise) the Business (the "Restricted Business"); (ii) have an interest in any Person that engages directly or indirectly in the Restricted Business in any capacity, including as a partner, shareholder, investor, manager, director, member, employee, principal, independent contractor, agent, trustee, advisor or consultant; (iii) call upon, contact or communicate with, solicit, contract with, or enter into any Contract with, divert or attract, or attempt to do so, or do or accept business with, any customer or, to the actual knowledge of the Seller, any prospective customer of the Company as of the Closing Date, in each case solely with respect to the Restricted Business, or (iv) cause, induce or encourage any material actual customer, railroad partner, vendor, or supplier of the Company as of the Closing Date, in each case solely with respect to the Restricted Business, or any other Person who has a material business relationship with the Company as of the Closing Date, to terminate or modify any such actual relationship; and (v) for a period of two (2) years after the Closing Date, directly or indirectly solicit, hire, engage, call upon, contact, communicate with, recruit or employ or encourage any person who is an employee of the Company on the date of Closing or encourage such employee to leave such employment or engagement; provided, however, that the foregoing shall not prohibit any general advertisements or solicitation of employment not specifically directed at such employees. Notwithstanding the foregoing Section 5.10, the Buyer recognizes that the Seller has operated, and currently operates, a consulting business that performs a variety of tasks for clients in the railroad industry, including, without limitation, valuation, operations planning and feasibility analyses. Nothing in this Section 5.10 is intended to restrict the Seller from operating his consulting practice for any rail industry clients; provided that such work does not directly compete with any of the railroad interests of the Buyer and its Affiliates. In addition, should the Seller be asked to serve on a Board of Directors of any company in the railroad industry, the Seller agrees to obtain approval from the Buyer, which such approval shall not be unreasonably withheld.

(b) The parties hereto recognize that the laws and public policies of the various states of the United States may differ as to the validity and enforceability of covenants similar to those set forth in this Section 5.10. It is the intention of the parties that the provisions of this Section 5.10 be enforced to the fullest extent permissible under the laws and policies of each jurisdiction in which enforcement may be sought, and that the unenforceability (or the modification to conform to such laws or policies) of any provisions of this Section 5.10 shall not render unenforceable, or impair, the remainder of the provisions of this Section 5.10. Accordingly, if any provision of this Section 5.10 shall be determined to be invalid or unenforceable, such invalidity or unenforceability shall be deemed to apply only with respect to the operation of such provision in the particular jurisdiction in which such determination is made and not with respect to any other provision or jurisdiction.

(c) The parties to this Agreement acknowledge and agree that any remedy at law for any breach of the provisions of this Section 5.10 would be inadequate, and the Seller hereby consents to, without intending to limit any additional remedies that may be available, the granting by any court of an injunction or other equitable relief, without the necessity of actual monetary

loss or inadequacy of legal remedy being proved, in order that the breach or threatened breach of such provisions may be effectively restrained.

SECTION 5.11 Bonus Payments. Prior to Closing, the Seller shall cause the Bonus Payments, including any and all withholding and applicable payroll or other Taxes, to be paid in full.

SECTION 5.12 Further Assurances; Personal Items. From time to time after the Closing, without additional consideration, each of the parties hereto will (or, if appropriate, cause their Affiliates to) execute and deliver such further instruments and take such other action as may be necessary to make effective the transactions contemplated by this Agreement. If any party to this Agreement shall following the Closing have in its possession any asset or right that under this Agreement should have been delivered to the other, such party shall promptly deliver such asset or right to the other. The Buyer agrees that Seller shall be entitled to remove from the offices of the Company photographs, plaques, and personal items (not related to the operation of the Business) solely to the extent the value is *de minimis* and is not reflected on the Balance Sheet.

SECTION 5.13 Release by the Seller. As of the Closing, the Seller and its Affiliates, successors and assigns (in each case, solely in their capacity as such) (each, a “Releasing Person”) hereby unconditionally release and forever discharge the Buyer and the Company, from all debts, demands, causes of action, suits, covenants, torts, damages and any and all claims, defenses, offsets, judgments, demands and liabilities whatsoever, of every name and nature, both at law and in equity, known or unknown, accrued or unaccrued that have been or could have been asserted against the Company, which any Releasing Person has or ever had, which arises out of or in any way relates to events, circumstances or actions occurring, existing or taken prior to or as of the Closing Date in respect of matters related to the Company (including any intercompany liabilities owed to the Seller or its Affiliates, on the one hand, by the Company on the other hand); provided that the Seller and the Buyer acknowledge and agree that this Section 5.13 does not apply to and shall not constitute a release of any rights or obligations arising under this Agreement that by their terms survive the Closing.

SECTION 5.14 FCC Radio License. The Buyer and the Seller shall, and prior to the Closing the Seller shall cause the Company to, cooperate to obtain the consent of the United States Federal Communications Commission (the “FCC”) pursuant to 47 U.S.C. § 310(d) and 47 C.F.R. § 1.948 for the transfer of control of the radio license authorization held by the Company under call sign WQMH555, File Number 0004336843. Promptly following execution of this Agreement, the Seller shall initiate the electronic filing of FCC Form 603, “FCC Application for Assignments of Authorization or Transfers of Control,” through the FCC’s Universal Licensing System, and shall be responsible for the filing fees associated with such application. The Buyer shall electronically approve and sign the FCC Form 603 application through the Universal Licensing System and shall, within thirty (30) days after the Closing Date, notify the FCC of the consummation of the transfer of control through the filing of FCC Form 603, Schedule D.

SECTION 5.15 Employee Benefits. Prior to the Closing Date, Seller shall take, and shall cause the Company to take, all necessary actions to effect the cessation of, and withdrawal from, participation by the Company as a participating employer in all Seller Benefit Plans, with such actions to be effective as of the Closing Date. Seller shall be responsible for the

provision of group health plan continuation coverage pursuant to COBRA with respect to each Person who is an “M&A qualified beneficiary,” as defined in Treasury Regulations Section 54.4980B-9, with respect to the transactions contemplated by this Agreement, who experiences a “qualifying event” as defined in Section 4980B(f)(3) of the Code. Seller shall be responsible for all liabilities with respect to all Seller Benefit Plans.

SECTION 5.16 Section 280G Matters. With respect to each service provider of the Company who is a “disqualified individual” (as defined in Section 280G(c) of the Code), no later than five (5) Business Days prior to the Closing, the Seller shall use its reasonable best efforts to seek to have any such individual waive any payments or economic benefit pursuant to any Plans and any agreement to which such individual is entitled in connection with the transactions contemplated hereby to the extent such payments or economic benefits could constitute an “excess parachute payment” (as defined in Section 280G(b) of the Code) with respect to such individual. If any individual waives his or her rights to payments or economic benefits as described in the previous sentence, the Seller shall use reasonable best efforts to seek to obtain member approval in accordance with the requirements of Section 280G(b)(5)(B) of the Code and in a manner that satisfies the applicable requirements of Section 280G(b)(5)(B) of the Code and any regulations promulgated thereunder; provided that in no event shall this Section 5.16 be construed to require the Seller to compel any Person to waive any existing rights under any contract or agreement that such Person has with the Company, and in no event shall the Seller be deemed in breach of this Section 5.16 if any such Person refuses to waive any such rights or such member approval is not obtained. Within a reasonable period of time before taking such actions, the Seller shall deliver to the Buyer for review copies of any documents or agreements necessary to effect this Section 5.16 (including, but not limited to, any member consent form, disclosure statement or waiver) for the Buyer’s review and comment (which comments shall be considered by the Seller in good faith). To the extent that any such waived payments or economic benefits do not obtain such approval, such waived payments or economic benefits shall not be made or provided. Prior to the Closing, the Seller shall deliver to the Buyer evidence that such approval was solicited in accordance with the foregoing provisions of this Section 5.16 and that either (a) the requisite number of votes were obtained with respect to such waived payments or economic benefits, or (b) such approval was not obtained and, as a consequence, such waived payments or economic benefits shall not be made or provided.

SECTION 5.17 Cash. The Seller understands, acknowledges and agrees that Buyer shall not pay for any Cash of the Company in excess of \$[REDACTED]. Prior to Closing, Seller shall cause the Company to dividend or distribute all Cash of the Company (other than minimum amounts of Cash necessary for the Company to meet its short-term obligations) to the Seller.

ARTICLE 6. COVENANTS OF THE BUYER.

The Buyer hereby covenants as follows:

SECTION 6.1 Consents and Approvals.

(a) The Buyer shall, at its cost and expense, (i) use commercially reasonable efforts to obtain all necessary consents, waivers, exemptions, authorizations, orders and approvals of all Governmental Entities required in connection with the execution, delivery and performance

by the Buyer of this Agreement and the transactions contemplated hereby and (i) diligently assist and cooperate with the Seller in preparing and filing all documents required to be submitted by the Seller to any Governmental Entities in connection with such transactions and in obtaining any consents, waivers, exemptions authorizations, orders or approvals of Governmental Entities that may be required to be obtained by the Seller in connection with such transactions, which assistance and cooperation shall include timely furnishing to the Seller all information concerning the Buyer that counsel to the Seller reasonably determines is required to be included in such documents or would be helpful in obtaining any such required consent, waiver, exemption, authorization or approval.

(b) Subject to Section 5.2(b), the Buyer shall be solely responsible, but with the cooperation of the Seller, at the Buyer's sole cost and expense, for obtaining an exemption from, the STB for the transactions contemplated by this Agreement. Within [REDACTED] Business Days following execution of this Agreement, Buyer shall file with the STB a Notice of Exemption pursuant 49 C.F.R. 1180.2(d)(2) to acquire control of the Company as required under 49 U.S.C, 11323(a). Buyer shall concurrently file with the STB a motion for protective order pursuant to 49 C.F.R. 1104.14(b) to allow Buyer to file an unredacted copy of this Agreement under seal. Seller shall cooperate with Buyer in preparing Buyer's filings with the STB, and Buyer shall afford Seller the opportunity to review and comment on the draft filings a reasonable time in advance of their being filed with the STB.

SECTION 6.2 Commercially Reasonable Efforts. Upon the terms and subject to the conditions of this Agreement insofar as such matters are within the control of the Buyer, the Buyer shall use commercially reasonable efforts to take, or cause to be taken, all actions, and to do, or cause to be done, all things necessary, proper or advisable consistent with applicable Law to consummate and make effective the transactions contemplated hereby on the Closing Date.

SECTION 6.3 No Benefit to Third-Party. Nothing in this Agreement, express or implied, is intended to confer upon any current or former employee, director, officer or consultant any rights, remedies or obligations under or by reason of this Agreement, including this Article 6.

SECTION 6.4 [REDACTED]

[REDACTED]

SECTION 6.5 [REDACTED]

[REDACTED]

[REDACTED]

ARTICLE 7. INDEMNIFICATION.

SECTION 7.1 General. Subject to the limitations and other provisions of this Agreement, the representations and warranties contained herein shall survive the Closing and shall remain in full force and effect until the date that is [REDACTED]

[REDACTED]

[REDACTED]. All covenants and agreements of the parties contained herein shall survive the Closing indefinitely or for the period explicitly specified therein. Notwithstanding the foregoing, any claims asserted in good faith with reasonable specificity (to the extent known at such time) and in writing by notice from the non-breaching party to the breaching party prior to the expiration date of the applicable survival period shall not thereafter be barred by the expiration of the relevant representation or warranty and such claims shall survive until finally resolved.

SECTION 7.2 Indemnification By the Seller. Subject to the other terms and conditions of this Article 7, from and after the Closing, Seller shall indemnify and defend each of Buyer and its Affiliates (including the Company) and their respective Representatives (collectively, the “Buyer Indemnitees”) against, and shall hold each of them harmless from and against, and shall pay and reimburse each of them for, any and all Losses incurred or sustained by, or imposed upon, the Buyer Indemnitees based upon, arising out of, with respect to or by reason of:

[REDACTED]

[REDACTED]

[REDACTED]

SECTION 7.3 Indemnification By The Buyer. Subject to the other terms and conditions of this Article 7, from and after the Closing, Buyer shall indemnify and defend each of

[REDACTED]

(a) Seller shall not be liable to the Buyer Indemnitees for indemnification under Section 7.2(a) until the aggregate amount of all Losses in respect of indemnification under Section 7.2(a) exceeds [REDACTED] (the “Basket”), in which event Seller shall be required to pay or be liable for all such Losses from the first dollar. The aggregate amount of all Losses for which Seller shall be liable pursuant to Section 7.2(a) shall not exceed [REDACTED] (the “Cap”).

(c) Notwithstanding the foregoing, the limitations set forth in Section 7.4(a) and Section 7.4(b) shall not apply to Losses based upon, arising out of, with respect to or by reason of any inaccuracy in or breach of any Fundamental Representation or any representation or warranty relating to Taxes, or claims based on fraud.

SECTION 7.5 Indemnification Procedures. The party making a claim under this Article 7 is referred to as the “Indemnified Party”, and the party against whom such claims are asserted under this Article 7 is referred to as the “Indemnifying Party”.

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“Third Party Claim”) against such Indemnified Party with respect to which the Indemnifying Party is obligated to provide indemnification under this Agreement, the Indemnified Party shall give the Indemnifying Party reasonably prompt written notice thereof. The failure to give such prompt written notice shall not, however, relieve the Indemnifying Party of its indemnification obligations, except and only to the extent that the Indemnifying Party forfeits rights or defenses by reason of such failure. Such notice by the Indemnified Party shall describe the Third Party Claim in reasonable detail, shall include copies of all material written evidence thereof and shall indicate the estimated amount, if reasonably practicable, of the Loss that has been or may be sustained by the Indemnified Party. The Indemnifying Party shall have the right to participate in, or by giving written notice to the Indemnified Party, to assume the defense of any Third Party Claim at the Indemnifying Party’s expense and by the Indemnifying Party’s own counsel, and the Indemnified Party shall cooperate in good faith in such defense; provided, that if the Indemnifying Party is Seller, such Indemnifying Party shall not have the right to defend or direct the defense of any such Third Party Claim that (x) is asserted directly by or on behalf of a Person that is a supplier or customer of the Company, or (y) seeks an injunction or other equitable relief against the Indemnified Party. In the event that the Indemnifying Party assumes the defense of any Third Party Claim, subject to Section 7.5(b), it shall have the right to take such action as it deems necessary to avoid, dispute, defend, appeal or make counterclaims pertaining to any such Third Party Claim in the name and on behalf of the Indemnified Party. The Indemnified Party shall have the right to participate in the defense of any Third Party Claim with counsel selected by it subject to the Indemnifying Party’s right to control the defense thereof. The fees and disbursements of such counsel shall be at the expense of the Indemnified Party, provided, that if in the reasonable opinion of counsel to the Indemnified Party, (A) there are legal defenses available to an Indemnified Party that are different from or additional to those available to the Indemnifying Party; or (B) there exists a conflict of interest between the Indemnifying Party and the Indemnified Party that cannot be waived, the Indemnifying Party shall be liable for the reasonable fees and expenses of counsel to the Indemnified Party in each jurisdiction for which the Indemnified Party determines counsel is required. If the Indemnifying Party elects not to compromise or defend such Third Party Claim, fails to promptly notify the Indemnified Party in writing of its election to defend as provided in this Agreement, or fails to diligently prosecute the defense of such Third Party Claim, the Indemnified Party may, subject to Section 7.5(b), pay, compromise, defend such Third Party Claim and seek indemnification for any and all Losses based upon, arising from or relating to such Third Party Claim. Seller and Buyer shall cooperate with each other in all reasonable respects in connection with the defense of any Third Party Claim, including making available records relating to such Third Party Claim and furnishing, without expense (other than reimbursement of actual out-of-pocket expenses) to the defending party, management employees of the non-defending party as may be reasonably necessary for the preparation of the defense of such Third Party Claim.

(b) Settlement of Third Party Claims. Notwithstanding any other provision of this Agreement, the Indemnifying Party shall not enter into settlement of any Third Party Claim without the prior written consent of the Indemnified Party, except as provided in this Section 7.5(b). If a firm offer is made to settle a Third Party Claim without leading to liability or the creation of a financial or other obligation on the part of the Indemnified Party and provides, in customary form, for the unconditional release of each Indemnified Party from all liabilities and obligations in connection with such Third Party Claim and the Indemnifying Party desires to accept and agree to such offer, the Indemnifying Party shall give written notice to that effect to the Indemnified Party. If the Indemnified Party fails to consent to such firm offer within ten (10) days

after its receipt of such notice, the Indemnified Party may continue to contest or defend such Third Party Claim and in such event, the maximum liability of the Indemnifying Party as to such Third Party Claim shall not exceed the amount of such settlement offer. If the Indemnified Party fails to consent to such firm offer and also fails to assume defense of such Third Party Claim, the Indemnifying Party may settle the Third Party Claim upon the terms set forth in such firm offer to settle such Third Party Claim. If the Indemnified Party has assumed the defense pursuant to Section 7.5(a), it shall not agree to any settlement without the written consent of the Indemnifying Party (which consent shall not be unreasonably withheld or delayed).

(c) Direct Claims. Any Action by an Indemnified Party on account of a Loss which does not result from a Third Party Claim (a “Direct Claim”) shall be asserted by the Indemnified Party giving the Indemnifying Party reasonably prompt written notice thereof after the Indemnified Party becomes aware of such Direct Claim. The failure to give such prompt written notice shall not, however, relieve the Indemnifying Party of its indemnification obligations, except and only to the extent that the Indemnifying Party forfeits rights or defenses by reason of such failure. Such notice by the Indemnified Party shall describe the Direct Claim in reasonable detail, shall include copies of all material written evidence thereof and shall indicate the estimated amount, if reasonably practicable, of the Loss that has been or may be sustained by the Indemnified Party. The Indemnifying Party shall have 30 days after its receipt of such notice to respond in writing to such Direct Claim. The Indemnified Party shall allow the Indemnifying Party and its professional advisors to investigate the matter or circumstance alleged to give rise to the Direct Claim, and whether and to what extent any amount is payable in respect of the Direct Claim and the Indemnified Party shall assist the Indemnifying Party’s investigation by giving such information and assistance (including access to the Company’s premises and personnel and the right to examine and copy any accounts, documents or records) as the Indemnifying Party or any of its professional advisors may reasonably request. If the Indemnifying Party does not so respond within such 30 day period, the Indemnifying Party shall be deemed to have rejected such claim, in which case the Indemnified Party shall be free to pursue such remedies as may be available to the Indemnified Party on the terms and subject to the provisions of this Agreement.

SECTION 7.6 Payments; Indemnification Escrow Fund.

(a) Once a Loss is agreed to by the Indemnifying Party or finally adjudicated to be payable pursuant to this Article 7, the Indemnifying Party shall satisfy its obligations within 15 Business Days of such final, non-appealable adjudication by wire transfer of immediately available funds. The parties hereto agree that should an Indemnifying Party not make full payment of any such obligations within such 15 Business Day period, any amount payable shall accrue interest from and including the date of agreement of the Indemnifying Party or final, non-appealable adjudication to but excluding the date such payment has been made at a rate per annum equal to five percent (5%). Such interest shall be calculated daily on the basis of a 365 day year and the actual number of days elapsed.

(b) Any Losses payable to a Buyer Indemnitee pursuant to this Article 8 shall be satisfied: (i) from the Indemnification Escrow Fund; and (ii) to the extent the amount of Losses exceeds the amounts available to the Buyer Indemnitee in the Indemnification Escrow Fund, from Seller.

SECTION 7.7 Tax Treatment of Indemnification Payments. All indemnification payments made under this Agreement shall be treated by the parties as an adjustment to the Purchase Price for Tax purposes, unless otherwise required by Law.

SECTION 7.8 Effect of Investigation. The representations, warranties and covenants of the Indemnifying Party, and the Indemnified Party's right to indemnification with respect thereto, shall not be affected or deemed waived by reason of any investigation made by or on behalf of the Indemnified Party (including by any of its representatives) or by reason of the fact that the Indemnified Party or any of its representatives knew or should have known that any such representation or warranty is, was or might be inaccurate or by reason of the Indemnified Party's waiver of any condition set forth in Article 8 or Article 9 as the case may be.

SECTION 7.9 Exclusive Remedies. Except as set forth herein (including pursuant to Section 2.3, Section 5.10 and Section 12.16), the parties acknowledge and agree that their sole and exclusive remedy with respect to any and all claims (other than claims arising from fraud, criminal activity or willful misconduct on the part of a party hereto in connection with the transactions contemplated by this Agreement) for any breach of any representation, warranty, covenant, agreement or obligation set forth herein or otherwise relating to the subject matter of this Agreement, shall be pursuant to the indemnification provisions set forth in this Article 7. In furtherance of the foregoing, each party hereby waives, to the fullest extent permitted under Law, any and all rights, claims and causes of action for any breach of any representation, warranty, covenant, agreement or obligation set forth herein or otherwise relating to the subject matter of this Agreement it may have against the other parties hereto and their Affiliates and each of their respective Representatives arising under or based upon any Law, except pursuant to the indemnification provisions set forth in this Article 7. Nothing in this Section 7.9 shall limit any Person's right to seek and obtain any equitable relief to which any Person shall be entitled or to seek any remedy on account of any party's fraudulent, criminal or intentional misconduct.

ARTICLE 8. CONDITIONS PRECEDENT TO PERFORMANCE BY THE SELLER.

The obligations of the Seller to consummate the transactions contemplated by this Agreement are subject to the fulfillment, at or before the Closing Date, of the following conditions, any one or more of which (other than Section 8.3) may be waived (in writing) in whole or in part by the Seller in its sole discretion at or prior to the Closing Date:

SECTION 8.1 Representations and Warranties of the Buyer. All representations and warranties made by the Buyer in this Agreement shall be true and correct in all material respects (except for each of the representations and warranties made by the Buyer that are limited by materiality, which shall be true and correct in all respects (as so limited)) on and as of the date hereof and on and as of the Closing Date as if again made by the Buyer on and as of such date, except to the extent such representations and warranties are made on and as of a specified date, in which event such representations and warranties shall be true and correct in all material respects (except for each of the representations and warranties made by the Buyer that are limited by materiality, which shall be true and correct in all respects (as so limited)) on and as of such specified date;

SECTION 8.2 Performance of the Obligations of the Buyer. The Buyer shall have performed in all material respects all obligations required under this Agreement to be performed by it on or before the Closing Date.

SECTION 8.3 No Violation of Orders. No preliminary or permanent injunction or other order issued by any Governmental Entity, nor any statute, rule, regulation, decree or executive order promulgated or enacted by any Governmental Entity which declares this Agreement invalid or unenforceable or which prevents the consummation of the transactions contemplated hereby shall be in effect.

SECTION 8.4 Closing Deliveries by the Buyer. At the Closing, the Buyer shall deliver (or caused to be delivered) to the Seller:

- (i) the Closing Payment Amount by wire transfer in immediately available funds as provided in Section 2.1(c); and
- (ii) a certificate of a duly authorized officer of the Buyer certifying as to the matters set forth in Section 8.1 and Section 8.2;
- (iii) the Escrow Agreement, duly executed by the Buyer.

ARTICLE 9. CONDITIONS PRECEDENT TO PERFORMANCE BY THE BUYER.

The obligations of the Buyer to consummate the transactions contemplated by this Agreement are subject to the fulfillment, at or before the Closing Date, of the following conditions, any one or more of which may be waived (in writing) in whole or in part by the Buyer in its sole discretion at or prior to the Closing Date:

SECTION 9.1 Representations and Warranties of the Seller. All representations and warranties made by the Seller (on behalf of the Seller or the Company) in this Agreement shall be true and correct in all material respects (except for each of the representations and warranties made by the Seller (on behalf of the Seller or the Company) that are limited by materiality, which shall be true and correct in all respects (as so limited)) on and as of the date hereof and on and as of the Closing Date as if again made by the Seller (on behalf of the Seller or the Company) on and as of such date, except to the extent such representations and warranties are made on and as of a specified date, in which event such representations and warranties shall be true and correct in all material respects (except for each of the representations and warranties made by the Seller (on behalf of the Seller or the Company) that are limited by materiality, which shall be true and correct in all respects (as so limited)) on and as of such specified date.

SECTION 9.2 Performance of the Obligations of the Seller. The Seller shall have performed (or caused to be performed) in all material respects all obligations required under this Agreement to be performed by the Seller or the Company on or before the Closing Date.

SECTION 9.3 No Violation of Orders. No preliminary or permanent injunction or other order issued by any Governmental Entity, nor any statute, rule, regulation, decree or executive order promulgated or enacted by any Governmental Entity, which declares this

Agreement invalid or unenforceable or prevents the consummation of the transactions contemplated hereby shall be in effect; and no action or proceeding before any Governmental Entity shall have been instituted or threatened by any Governmental Entity or by any other Person which seeks to prevent or delay the consummation of the transactions contemplated by this Agreement or which challenges the validity or enforceability of this Agreement, and which in either such case has a reasonable likelihood of success in the reasonable opinion of counsel to the Buyer.

SECTION 9.4 STB. Any exemption, authorization or approval of the transactions contemplated by this Agreement shall have been obtained from the STB and such exemption, authorization or approval shall be in full force and effect, and neither the STB nor any other Governmental Entity shall have imposed any conditions or obligations on the transactions contemplated by this Agreement (other than any immaterial condition or obligation).

SECTION 9.5 Material Consents. The Seller shall have received, each in form and substance satisfactory to the Buyer, the third-party consents and estoppel certificates necessary or desirable for the consummation of the transactions contemplated by this Agreement as set forth in Section 9.5 of the Disclosure Schedules, if any.

SECTION 9.6 FIRPTA. The Seller shall deliver to the Buyer at the Closing a duly executed certificate, in form and substance acceptable to the Buyer and in accordance with applicable Regulations, certifying the non-foreign status of the Seller for purposes of Section 1445 of the Code or such facts as to establish that transactions contemplated hereby are exempt from withholding pursuant to Section 1445 of the Code.

SECTION 9.7 No Material Adverse Effect. No event or events shall have occurred which, individually or in the aggregate, have had, or could reasonably be expected to have, a Material Adverse Effect.

SECTION 9.8 Release of Liens. The Seller shall have obtained written agreements and/or instruments sufficient to fully release each of the Company from all obligations and liabilities relating to indebtedness for borrowed money, and further to release all Liens on the Shares and the Company's property, rights and assets (including via executed and filed UCC-3s); provided that any such agreements and/or instruments shall be in form and substance reasonably satisfactory to the Buyer and shall be obtained by the Seller without the Buyer or the Company incurring any liabilities or obligations.

SECTION 9.9 Closing Deliveries by the Seller. At the Closing, the Seller shall have delivered or caused to be delivered to the Buyer:

(a) stock certificates or another appropriate instrument of transfer evidencing all of the Shares, duly endorsed in blank or accompanied by stock powers duly executed in blank, in a form satisfactory to the Buyer, such shares being delivered free and clear of all Liens with all required stock transfer tax stamps affixed thereto;

(b) a receipt for the Closing Payment Amount;

(c) a duly executed certificate of the Seller certifying as to the matters set forth in Section 9.1 and Section 9.2;

(d) a duly executed certificate certifying the non-foreign status of the Seller as set forth in Section 9.6;

(e) the duly executed resignations of all directors and officers of the Company;

(f) evidence satisfactory to the Buyer that the Seller shall have paid and discharged the Excluded Liabilities, including the Bonus Payments;

(g) evidence of termination of any intercompany arrangements, as contemplated in Section 5.6(a);

(h) the Estimated Closing Working Capital Statement contemplated in Section 2.3(a);

(i) a certificate of the Secretary or an Assistant Secretary (or equivalent officer) of the Seller, certifying that attached thereto are true and complete copies of (a) the organizational documents of the Company, (b) all resolutions adopted by the board of directors of the Seller authorizing the execution, delivery and performance of this Agreement and the Ancillary Agreements and the consummation of the transactions contemplated hereby and thereby, and that all such resolutions are in full force and effect and are all the resolutions adopted in connection with the transactions contemplated hereby and thereby;

(j) a certificate of the Secretary or an Assistant Secretary (or equivalent officer) of the Seller certifying the names and signatures of the officers of the Seller authorized to sign this Agreement and the Ancillary Agreements;

(k) the Escrow Agreement, duly executed by the Buyer and the Escrow Agent;
and

(l) good standing certificate for the Company.

SECTION 9.10 Amendment to Lease. An amendment to the Lease Agreement between the Company and Norfolk Southern, in form and substance reasonably acceptable to the Buyer, shall have been duly executed by the Company and Norfolk Southern.

ARTICLE 10. TERMINATION.

SECTION 10.1 Conditions of Termination. Notwithstanding anything to the contrary contained herein, this Agreement may be terminated by written notice at any time before the Closing:

(a) by mutual consent of the Seller and the Buyer;

(b) by the Buyer if the Seller has breached any representation, warranty, covenant or agreement contained in this Agreement and has not cured such breach within thirty

(30) calendar days after written notice to the Seller such that the conditions set forth in Section 9.1 or Section 9.2 hereof, as the case may be, will not be satisfied; provided that the Buyer is not then in material breach of the terms of this Agreement; provided, further, that no cure period shall be required for a breach that by its nature cannot be cured;

(c) by the Seller if the Buyer has breached any representation, warranty, covenant or agreement contained in this Agreement and has not cured such breach within thirty (30) calendar days after written notice to the Buyer such that the conditions set forth in Section 8.1 or Section 8.2 hereof, as the case may be, will not be satisfied; provided that the Seller is not then in material breach of the terms of this Agreement; provided, further, that no cure period shall be required for a breach that by its nature cannot be cured;

(d) by the Seller or the Buyer if there shall be a final, non-appealable order of a court of competent jurisdiction in the United States in effect preventing, restraining, enjoining or otherwise prohibiting consummation of the transactions contemplated hereby; provided, however, that the right to terminate this Agreement under this Section 10.1(d) shall not be available to any party whose failure to perform any of its obligations under this Agreement has been the primary cause of such order;

(e) by the Buyer if the exemption, authorization or approval of the STB shall not have been granted or become effective and all reasonably available appeals of such determination shall have been taken and are unsuccessful; or

(f) by the Seller or the Buyer if the Closing shall not have been consummated by [REDACTED]; provided that the right to terminate this Agreement under this Section 10.1(f) shall not be available to the Seller if the failure of the Closing to have occurred was primarily due to the failure of the Seller to perform any of its obligations under this Agreement.

SECTION 10.2 Effect of Termination. Except as provided herein, in the event of the termination of this Agreement as provided in Section 10.1 hereof, this Agreement shall forthwith become void and have no effect, and there shall be no liability or obligation on the part of the Seller or the Buyer, or their respective officers, directors, stockholders, members, partners or other Persons under their control (including the Company). If this Agreement is terminated as provided herein, except as otherwise expressly set forth herein, no party to this Agreement shall have any liability hereunder to any other party, except for any willful and intentional breach by such party of the terms and provisions of this Agreement prior to such termination. The provisions of Article 12 shall survive any termination hereof pursuant to Section 10.1.

ARTICLE 11. TAX MATTERS.

The following provisions shall govern the allocation of responsibility between the Buyer and the Seller for certain tax matters following the Closing Date:

SECTION 11.1 Tax Returns.

(a) The Buyer shall, prepare or cause to be prepared and file or cause to be filed (in a manner consistent with past practices) all Tax Returns of the Company for any taxable period that ends on or prior to, or following, the Closing Date that are due after the Closing Date, provided

that the applicable Tax Returns have not been filed by the Seller or its Affiliates prior to the Closing in accordance with past practices. The Buyer shall deliver to the Seller a copy of any such Tax Return twenty (20) calendar days prior to the due date (including extensions) for the filing of such Tax Return for review and approval (which approval shall not be unreasonably withheld, conditioned or delayed). The Seller shall pay to the Buyer an amount equal to the Taxes shown as due and payable on any such Tax Return for any Pre-Closing Tax Period that ends on or before the Closing Date, and on any such other Tax Return that are allocable to the Pre-Closing Tax Period no later than three Business Days prior to the due date (including extensions) for the filing such Tax Return. For the avoidance of doubt, the short 2020 tax year final federal Tax Return of the Company for the Pre-Closing Tax Period will not include any claim for railroad track maintenance credit pursuant to Section 45G of the Code.

(b) For purposes of Section 11.1(a), whenever it is necessary to determine the liability for Taxes of the Company for a taxable period that begins on or before, and ends after, the Closing Date:

(i) Taxes imposed on a periodic basis (such as real, personal and intangible property Taxes) shall be prorated between the Buyer and the Seller as of the Closing by multiplying the amount of such Taxes for the entire period (or, in the case of such Taxes determined on an arrears basis, the amount of such Taxes for the immediately preceding period) multiplied by a fraction, the numerator of which is the number of calendar days in the portion of such taxable period ending on and including the Closing Date and the denominator of which is the number of calendar days in the entire relevant taxable period; and

(ii) all other Taxes for the Pre-Closing Tax Period (such as franchise Taxes, Taxes that are based upon or related to income or receipts, based upon occupancy or imposed in connection with any sale or other transfer or assignment of property (real or personal, tangible or intangible)) shall be determined as if the Company had a taxable year or period that ended on and included the Closing Date. For purposes of this Section 11.1(b)(ii), to the extent permissible under applicable Law, all Transaction Expenses incurred by the Company at the direction and for the benefit of the Seller shall be included in the relevant Pre-Closing Tax Period.

SECTION 11.2 Tax Cooperation. The Buyer and the Seller shall reasonably cooperate, and shall cause their respective Affiliates (including the Company), officers, employees, agents, auditors and representatives to reasonably cooperate (including by maintaining in accordance with the applicable record retention policies of the Buyer or the Seller, as applicable, and making available to each other all relevant records and information), in preparing and filing all Tax Returns and in resolving all disputes and audits for all taxable periods. Such cooperation shall include making employees available on a mutually convenient basis to provide additional information and explanation of any material provided hereunder. The Seller and the Buyer agree to retain all books and records with respect to Tax matters pertinent to the Company relating to any taxable period beginning before the Closing Date until expiration of the statute of limitations (and, to the extent notified by the Buyer or the Seller, any extensions thereof) of the respective taxable periods, and to abide by all record retention agreements entered into with any taxing authority. The Buyer and the Seller further agree, upon request, to use commercially reasonable

efforts to obtain any certificate or other document from any Governmental Entity or any other Person as may be necessary to mitigate, reduce or eliminate any Tax that could be imposed (including with respect to the transactions contemplated hereby).

SECTION 11.3 Transfer Taxes. All transfer, documentary, sales, use, registration and similar Taxes (including all applicable real estate transfer Taxes and stock transfer Taxes) and related fees (including any penalties, interest and additions to Tax) incurred in connection with the transactions contemplated hereby shall be [REDACTED], and the Seller and the Buyer shall cooperate in a timely manner in preparing and filing all Tax Returns as may be required to comply with the provisions of such Tax Laws.

SECTION 11.4 Tax Sharing Agreement. Any Tax sharing or Tax indemnification agreement or similar contract or arrangement (whether written or not) and all powers of attorney with respect to or involving the Company shall be terminated as of the Closing Date and, after the Closing Date, the Company shall not be bound thereby or have any liability thereunder.

SECTION 11.5 [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

ARTICLE 12. MISCELLANEOUS.

SECTION 12.1 Successors and Assigns. Except as otherwise provided in this Agreement, no party hereto shall assign this Agreement or any rights or obligations hereunder without the prior written consent of the other party hereto and any such attempted assignment without such prior written consent shall be void and of no force and effect; provided, however, that the Buyer may assign any or all of its rights and obligations hereunder to any direct or indirect Affiliate of the Buyer; provided, further, however, that no such assignment shall reduce or otherwise vitiate any of the obligations of the Buyer hereunder. This Agreement shall inure to the benefit of and shall be binding upon the successors and permitted assigns of the parties hereto and no assignment shall relieve any party of any obligation or liability under this Agreement.

SECTION 12.2 Governing Law; Jurisdiction. This Agreement shall be construed, performed and enforced in accordance with, and governed by, the Laws of the State of Delaware without giving effect to any choice or conflict of law provision or rule (whether of the State of Delaware or any other jurisdiction). Each party hereto agrees to commence any action, suit or proceeding arising out of this Agreement or any transaction contemplated hereby in any federal court sitting in the City of Wilmington, Delaware or, if such suit, action or other proceeding may not be brought in such court for jurisdictional reasons, in any Delaware state court. Each party hereto irrevocably submits to the jurisdiction of such court for the purposes of any such suit, action or other proceeding. If the matter of such suit, action or proceeding falls within the jurisdiction of the Delaware Court of Chancery, then the parties agree and prefer that such suit, action or proceeding related to such matter shall be submitted exclusively to the Delaware Court of Chancery. Each party further agrees that service of any process, summons, notice or document by U.S. registered mail to such party's respective address set forth below shall be effective service of process for any action, suit or proceeding in Delaware with respect to any matters to which it has submitted to jurisdiction in this Section 12.2. Each party irrevocably and unconditionally waives any objection to the laying of venue of any action, suit or proceeding arising out of this Agreement or the transactions contemplated hereby in any federal court in the City of Wilmington, Delaware, or any Delaware state court and hereby further irrevocably and unconditionally waives and agrees not to plead or claim in any such court that any such action, suit or proceeding brought in any such court has been brought in an inconvenient forum.

SECTION 12.3 WAIVER OF JURY TRIAL. EACH OF THE PARTIES HERETO HEREBY IRREVOCABLY WAIVES ANY AND ALL RIGHT TO TRIAL BY JURY IN ANY ACTION ARISING OUT OF OR RELATED TO THIS AGREEMENT OR THE TRANSACTIONS CONTEMPLATED HEREBY AND COVENANTS THAT IT WILL NOT ASSERT ANY RIGHT TO TRIAL BY JURY IN ANY FORUM IN RESPECT OF ANY ISSUE OR ACTION, CLAIM, CAUSE OF ACTION, OR SUIT ARISING OUT OF OR BASED UPON THIS AGREEMENT OR THE SUBJECT MATTER HEREOF OR IN ANY WAY CONNECTED WITH OR RELATED TO THE TRANSACTIONS CONTEMPLATED HEREBY. EACH PARTY ACKNOWLEDGES THIS SECTION CONSTITUTES A MATERIAL INDUCEMENT UPON WHICH IT RELIES IN ENTERING THIS AGREEMENT.

SECTION 12.4 Expenses. The Seller shall pay (a) any financial advisory, investment banking, legal, accounting and other fees, , expenses and costs incurred by or on behalf of the Seller or the Company up to the Closing Date (or thereafter) in connection with the execution

and delivery of this Agreement and the consummation of the transactions contemplated hereby, (b) all Transaction Bonuses or similar payments due to any employee, officer or director directly as a result of the Transaction, including the employer portion of any withholding and payroll Taxes thereon, (c) the aggregate accruals for fiscal year 2020 annual incentive, bonus and commission compensation, in each case, together with all payroll, employment and other Taxes thereon (it being understood and agreed that if there are no accruals for such amounts, the parties shall use a pro rata amount (based on calendar days elapsed) of the Bonus Payments from 2019) and (c) all Excluded Liabilities (collectively, the “Transaction Expenses”). The Buyer shall pay any legal, accounting and other fees, expenses and costs incurred by the Buyer up to the Closing Date in connection with the execution and delivery of this Agreement and the consummation of the transactions contemplated hereby. Except as otherwise provided in this Agreement, all of the other fees, expenses and costs incurred in connection with the execution and delivery of this Agreement and the consummation of the transactions contemplated hereby shall be paid by the party hereto incurring such fees, expenses and costs. However, if the Purchase Price has been actually reduced for Transaction Expenses that were unpaid as of the Closing, the Company shall be responsible for only those Transaction Expenses to the extent such Transaction Expenses actually reduced the Purchase Price. Any Transaction Expense that did not actually reduce the Purchase Price shall continue to be the responsibility of, and be paid by, the Seller.

SECTION 12.5 Severability. In the event that any part of this Agreement is declared by any court or other judicial or administrative body to be null, void or unenforceable, said provision shall survive to the extent it is not so declared, and all of the other provisions of this Agreement shall remain in full force and effect.

SECTION 12.6 Notices. All notices, requests, demands and other communications under this Agreement shall be in writing and shall be deemed to have been duly given (i) on the date of service if served personally on the party to whom notice is to be given, (ii) on the day of transmission if sent via facsimile transmission to the facsimile number given below, and confirmation of delivery is generated after completion of transmission, or if sent via email (with confirmation of transmission), (iii) when received by the addressee if sent through Federal Express or similar overnight courier or the express mail service maintained by the United States Postal Service or (iv) on the fifth day after mailing, if mailed to the party to whom notice is to be given, by first class mail, registered or certified, postage prepaid and properly addressed, to the party as follows:

If to the Seller:

Douglas Golden
PO Box 399
Bunn, NC 27508
Attention: Douglas Golden
Email: [REDACTED]

If to the Buyer:

Regional Rail, LLC
c/o 3i RR LLC
One Grand Central Place
60 E. 42nd Street, Suite 4100,
New York, NY 10165
Attention: Benjamin Krause
Email: [REDACTED]

With a copy to:

Dyer & Peterson
Attention: John Fiorilla
Email: [REDACTED]

With a copy to:

Mayer Brown LLP
71 South Wacker Drive
Chicago, IL 60606
Attention: William R. Kucera
Email: [REDACTED]

Any party may change its address for the purpose of this Section by giving the other party written notice of its new address in the manner set forth above.

SECTION 12.7 Amendments; Waivers. This Agreement may be amended or modified, and any of the terms, covenants, representations, warranties or conditions hereof may be waived, only by a written instrument executed by the parties hereto, or in the case of a waiver, by the party waiving compliance. Any waiver by any party of any condition, or of the breach of any provision, term, covenant, representation or warranty contained in this Agreement, in any one or more instances, shall not be deemed to be nor construed as a further or continuing waiver of any such condition, or of the breach of any other provision, term, covenant, representation or warranty of this Agreement.

SECTION 12.8 Public Announcements. The parties agree that after the signing of this Agreement and prior to the Closing Date, the Seller shall not, and shall not permit the Company to, and the Buyer shall not, make any press release or public announcement concerning this transaction without the prior approval of the other party or parties hereto unless a press release or public announcement is required by Law or the rules of any securities exchange on which such party's securities are listed. Before a party to this Agreement makes any such announcement or other disclosure, it agrees to give the other parties hereto prior notice and an opportunity to review and approve the proposed disclosure. For purposes of this Section 12.8, the term "public announcement" shall include communications with employees, customers and vendors of, and other parties with material commercial relationships with, the Seller and/or the Company, except as contemplated by this Agreement.

SECTION 12.9 Entire Agreement. This Agreement (including the Disclosure Schedules and the other Schedules attached hereto) and the Ancillary Agreements contain the entire agreement and understanding among the parties hereto with respect to the transactions contemplated hereby and supersedes and replaces all prior agreements and understandings, oral or written with regard to such transactions. All Schedules hereto and any documents and instruments delivered pursuant to any provision hereof are expressly made a part of this Agreement as fully as though completely set forth herein.

SECTION 12.10 Parties in Interest. Nothing in this Agreement is intended to confer any rights or remedies under or by reason of this Agreement to any Person other than the parties hereto and their respective successors and permitted assigns and any Person entitled to indemnity under Article 7. Nothing in this Agreement, express or implied, is intended to confer upon any current or former employee, director, officer or consultant any rights, remedies or obligations under or by reason of this Agreement, including Article 6. Nothing in this Agreement is intended to relieve or discharge the obligations or liability of any third Person to the Seller or

the Buyer. No provision of this Agreement shall give any third parties any right of subrogation or action over or against the Seller or the Buyer.

SECTION 12.11 Scheduled Disclosures. Disclosure of any matter, fact or circumstance in a schedule to this Agreement shall be deemed to have been disclosed on all applicable Sections of the Disclosure Schedules to which such disclosure could relate or apply.

SECTION 12.12 Section and Paragraph Headings; Neutral Construction.

(a) The Section and paragraph headings in this Agreement are for reference purposes only and shall not affect the meaning or interpretation of this Agreement.

(b) The parties have participated jointly in the negotiation and drafting of this Agreement. In the event an ambiguity or question of intent or interpretation arises, this Agreement shall be construed as if drafted jointly by the parties and no presumption or burden of proof shall arise favoring or disfavoring any party by virtue of the authorship of any provisions of this Agreement.

(c) Whenever the words “include,” “includes” or “including” are used in this Agreement, they shall be deemed to be followed by the words “without limitation”.

SECTION 12.13 Knowledge. References in this Agreement to the “knowledge of the Seller” shall refer to the actual knowledge, after due inquiry of their direct reports, of [REDACTED].

SECTION 12.14 Access to Books and Records.

(a) In order to facilitate the resolution of any claims made against or incurred by the Seller prior to the Closing, or for any other reasonable purpose, for a period of five (5) years after the Closing, the Buyer shall: (A) retain the books and records (including personnel files) of the Company relating to periods prior to the Closing in a manner consistent with the historical practices of the Company; and (B) upon reasonable notice, afford the Seller and its agents reasonable access (including the right to make, at the Seller’s expense, photocopies), during normal business hours, to such books and records.

(b) In order to facilitate the resolution of any claims made by or against or incurred by the Buyer or the Company after the Closing, or for any other reasonable purpose, for a period of five (5) years following the Closing, the Seller shall: (A) retain the books and records (including personnel files) of the Seller which relate to the Company in a manner consistent with the historical practices of the Seller and its operations for periods prior to the Closing; and (B) upon reasonable notice, afford the Buyer or the Company and its or their agents reasonable access (including the right to make, at the Buyer’s expense, photocopies), during normal business hours, to such books and records.

(c) Neither the Buyer nor the Seller shall be obligated to provide the other party with access to any books or records (including personnel files) pursuant to this Section 12.14 where such access would violate any Law.

SECTION 12.15 Counterparts. This Agreement may be executed in counterparts, each of which shall be deemed an original, but all of which shall constitute the same instrument.

SECTION 12.16 Specific Performance. The parties hereto agree that if any of the provisions of this Agreement were not performed in accordance with their specific terms or were otherwise breached, irreparable damage would occur, no adequate remedy at law would exist and damages would be difficult to determine, and that the parties shall be entitled to specific performance of the terms hereof, in addition to any other remedy at law or equity.

[Remainder of page intentionally left blank]

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed as of the date first above written.

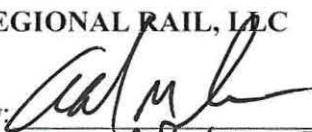
SELLER:



Douglas Golden

BUYER:

REGIONAL RAIL, LLC

By: 

Name: Alfred M. Sauer
Title: President & CEO

SCHEDULE A

Net Working Capital Methodology (Illustrative Example As of January 31, 2019)

See attached.

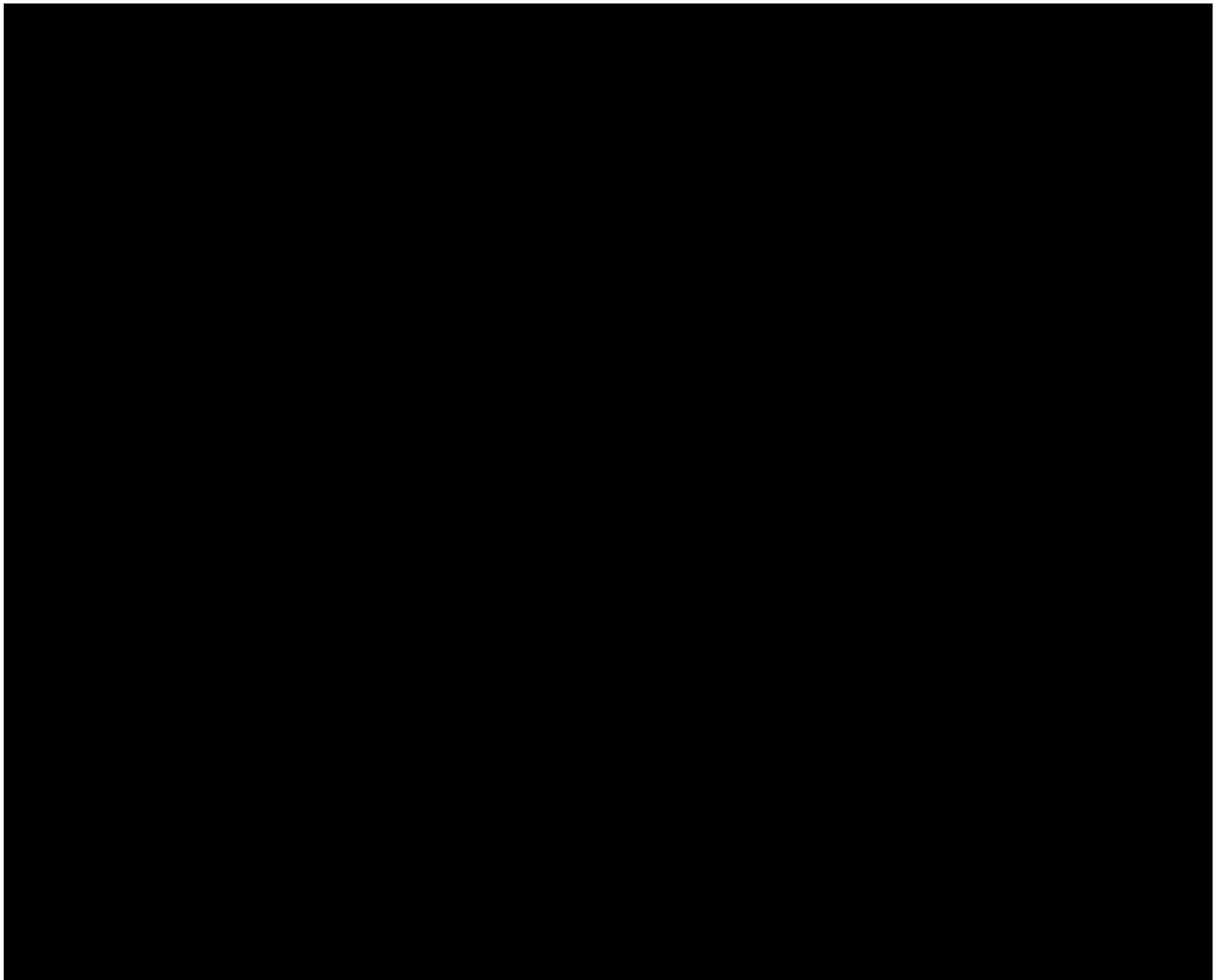
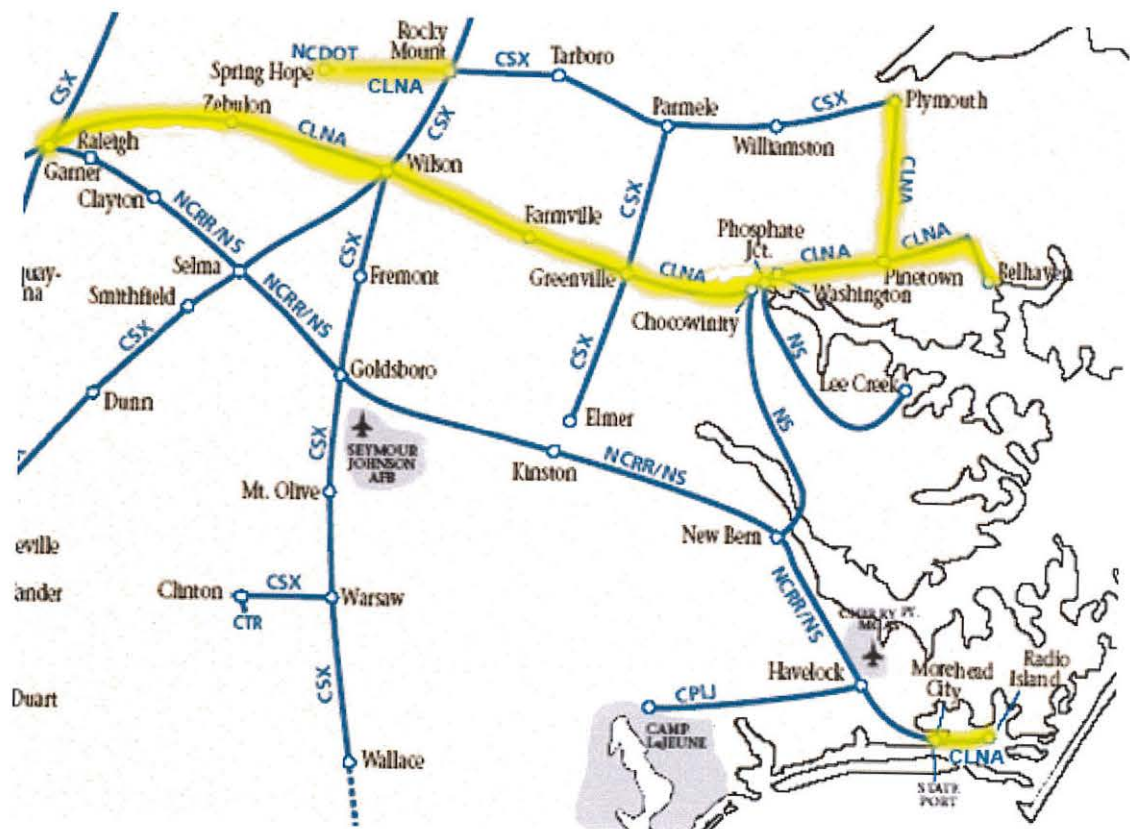


EXHIBIT B—MAPS



Regional Rail, LLC

