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IRVIN RIGSBY PLC
ATTORNEYS AT LAW

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August 19, 2020
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LEXINGTON OFFICE
228 East High Street
P.O. Box 34106
Lexington, KY 40588-4106
T: (859) 233-4633 F: (859) 233-4642

NICHOLASVILLE OFFICE
110 North Main Street
Nicholasville, KY 40356
T: (859) 887-1200 F: (859) 885-2307

CATHERINE S. WRIGHT
cwright@irvinrigsby.com
Direct Dial: (859) 724-4104

August 19, 2020

VIA ELECTRONIC FILING

Ms. Cynthia T. Brown
Chief, Section of Administration
Surface Transportation Board
395 E Street, S. W.
Washington, D.C. 20024

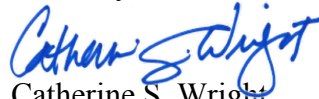
RE: Finance Docket No. 36430; R. J. Corman Railroad Company/Owego & Harford Line, LLC – Notice of Modified Certificate of Public Convenience and Necessity

Dear Ms. Brown:

Enclosed for filing in the above-captioned proceeding is the Notice of Modified Certificate of Public Convenience and Necessity on behalf of R. J. Corman Railroad Company/Owego & Harford Line, LLC pursuant to 49 C.F.R. § 1150.23, *et seq.* dated August 19, 2020. The sum of \$2,000.00, representing the appropriate fee for this filing, has been tendered electronically via Pay.gov. The Pay.gov Tracking ID is 26PNTONE.

If you have any questions, please feel free to contact me.

Sincerely,



Catherine S. Wright
*Attorney for R. J. Corman Railroad
Company/Owego & Harford Line, LLC*

Enclosures

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

FINANCE DOCKET NO. 36430

**R. J. CORMAN RAILROAD COMPANY/OWEGO & HARFORD LINE, LLC –
NOTICE OF MODIFIED CERTIFICATE OF PUBLIC
CONVENIENCE AND NECESSITY**

**NOTICE OF MODIFIED CERTIFICATE OF PUBLIC CONVENIENCE AND
NECESSITY
UNDER 49 C.F.R. § 1150.23 *et seq.***

Submitted by:
David R. Irvin
Catherine S. Wright
IRVIN RIGSBY PLC
110 N. Main St.
Nicholasville, Kentucky 40356
dirvin@irvinrigsby.com
cwright@irvinrigsby.com
(859) 724-4104
*Counsel for R. J. Corman Railroad
Company/Owego & Harford Line,
LLC*

Dated: August 19, 2020

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

FINANCE DOCKET NO. 36430

**R. J. CORMAN RAILROAD COMPANY/OWEGO & HARFORD LINE, LLC –
NOTICE OF MODIFIED CERTIFICATE OF PUBLIC
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UNDER 49 C.F.R. § 1150.23 *et seq.***

Pursuant to 49 C.F.R. §§ 1150, Subpart C, R. J. Corman Railroad Company/Owego & Harford Line, LLC (“OHRY”),¹ a non-carrier, hereby files Notice seeking a Modified Certificate of Public Convenience and Necessity (“Modified Certificate”) to permit OHRY to operate a rail line that was authorized for abandonment and subsequently conveyed to the Tioga County Industrial Development Agency (“TCIDA”), a public agency and political subdivision of the State of New York. The rail line is located between milepost 0.0 at Owego, New York and milepost 27.6 at North Harford, New York (the “Line”). The Line has been operated by the Owego & Harford Railway, Inc. under a prior modified rail certificate. *See Owego & Harford Railway, Inc. – Modified Rail Certificate*, Finance Docket No. 32063 (ICC served May 15, 1992).

¹ R. J. Corman Railroad Company, LLC, a non-carrier holding company, who owns 100% of OHRY, is filing a related proceeding to continue in control of OHRY upon it becoming a carrier while remaining in control of other existing R. J. Corman Railroad Company, LLC owned and controlled Class III STB regulated carriers. *R. J. Corman Railroad Company, LLC – Continuance in Control – R. J. Corman Railroad Company/Luzerne & Susquehanna Line, LLC, R. J. Corman Railroad Company/Lehigh Line, LLC and R. J. Corman Railroad Company/Owego & Harford Line, LLC*, Finance Docket No. 36431 (filed concurrently).

This transaction is part of a larger transaction in which R. J. Corman Railroad Company, LLC, through three newly formed non-carrier wholly owned subsidiaries – R. J. Corman Railroad Company/Luzerne & Susquehanna Line, LLC (“LS”), R. J. Corman Railroad Company/Lehigh Line, LLC (“LRWY”) and OHRY – has entered into an agreement to purchase the material assets of Lehigh Railway, LLC, Luzerne and Susquehanna Railway Company and Owego & Harford Railway, Inc., each of which is under the ownership and control of Steven C. May, and operate the respective rail lines (the “Transaction”). *Steven C. May – Continuance in Control Exemption – Luzerne and Susquehanna Railway Co.*, Finance Docket No. 32564 (ICC served Sept. 24, 1994); *Steven C. May – Continuance in Control Exemption – Lehigh Railway, LLC*, Finance Docket No. 35193 (STB served Nov. 14, 2008); *Steven C. May – Continuance in Control Exemption – Owego & Harford Railway, Inc.*, Finance Docket No. 32062 (ICC served May 15, 1992).

OHRY will commence carrier freight service on the Line upon the later of receiving regulatory approval, approximately 30 days following the filing date, or following closing of the Transaction. OHRY is a subsidiary of R. J. Corman Railroad Company, LLC which in turn is wholly owned subsidiary of R. J. Corman Railroad Group, LLC, a non-carrier holding company.

In accordance with the requirements of 49 C.F.R. § 1150.23, OHRY submits the following information:

Name and Address of Operator: 49 C.F.R. §1150.23(b)(1)

R. J. Corman Railroad Company/Owego & Harford, LLC
101 R. J. Corman Drive
PO Box 788
Nicholasville, Kentucky 40356

Articles of Incorporation: 49 C.F.R. §1150.23(b)(1)(i)

OHRY's Operating Agreement is attached as Exhibit A.

Name and Address of all its officers and directors: 49 C.F.R. §1150. 23(b)(1)(ii)

Ray Goss President

Alin Campian Secretary

The address of the officers is 101 R. J. Corman Drive, PO Box 788, Nicholasville, Kentucky 40356. All the officers are affiliated with R. J. Corman Railroad Company, LLC and its fifteen (15) railroad subsidiaries.

Financial responsibility of the operator: 49 C.F.R. §1150. 23(b)(1)(iii)

OHRY is a second-tier subsidiary of R. J. Corman Railroad Group, LLC, and, together with 15 other short line railroad owners/operators is owned by its direct parent, R. J. Corman Railroad Company, LLC, a first-tier subsidiary of R. J. Corman Railroad Group, LLC. OHRY will be adequately capitalized prior to the commencement of any rail carrier operations and will be fully supported, if and as needed, by R. J. Corman Railroad Company, LLC.

Prior Abandonment: 49 C.F.R. §1150. 23(b)(2)

Abandonment of the Line was previously authorized in 1976 under section 309 of the Regional Rail Reorganization Act of 1973 (3R Act), 45 U.S.C. 744(b) and sold in 1981 to TCIDA for continued rail service. *See Owego & Harford Railway, Inc. – Modified Rail Certificate*, Finance Docket No. 32063 (ICC served May 15, 1992).

Period of Operation: 49 C.F.R. §1150. 23(b)(3)

OHRY is commencing freight rail service for customers on the Line, the later of approximately thirty (30) days following this filing or closing of the Transaction, pursuant to an

Operating Agreement between Owego & Harford Railway, Inc. and TCIDA dated February 13, 2013 which is being assigned to and assumed by OHRY as part of its purchase of the material assets of Owego & Harford Railway, Inc. The Operating Agreement has a twelve (12) year term with an option to extend the term for an additional four (4) years. The Operating Agreement is attached as Exhibit B.

A description of the services to be provided: 49 C.F.R. §1150. 23(b)(4)

As noted above, OHRY will continue freight rail service for current and future customers on the Line.

The line over which service is to be performed: 49 C.F.R. §1150. 23(b)(4)(i)

The Line is located between milepost 0.0 at Owego, New York and milepost 27.6 at North Harford, New York.

All interline connections: 49 C.F.R. §1150. 23(b)(4)(ii)

The Line interchanges with Norfolk Southern Railway at Owego, New York.

Liability Insurance: 49 C.F.R. §1150. 23(b)(4)(iii)

The certificate of insurance applicable to OHRY is attached as Exhibit C.

Any preconditions which shippers must meet to receive service: 49 C.F.R. §1150. 23(b)(4)(iv)

None.

Name and address of any subsidizers: 49 C.F.R. §1150. 23(b)(5)

None.

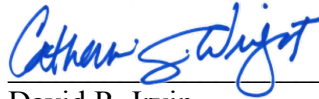
Financial information of any subsidizers: 49 C.F.R. §1150. 23(b)(6)

Not applicable.

Applicable rates and charges: 49 C.F.R. §1150. 23(c)

Upon reasonable request for common carrier freight rail service, OHRY will publish appropriate tariffs.

Respectfully submitted this 19th day of August 2020.



David R. Irvin
Catherine S. Wright
IRVIN RIGSBY PLC
110 N. Main St.
Nicholasville, Kentucky 40356
dirvin@irvinrigsby.com
cwright@irvinrigsby.com
(859) 724-4104
*Counsel for R. J. Corman Railroad
Company/Owego & Harford Line, LLC*

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**EXHIBIT A
OHRY's OPERATING AGREEMENT**

OPERATING AGREEMENT

OF

R. J. CORMAN RAILROAD COMPANY/OWEGO & HARFORD LINE, LLC

THIS OPERATING AGREEMENT (this "Agreement"), effective as of August 18, 2020 (the "Effective Date"), is entered into by and between R. J. CORMAN RAILROAD COMPANY/OWEGO & HARFORD LINE, LLC, ("the Company") and the R.J. CORMAN RAILROAD COMPANY, LLC ("Parent"), acting in its capacities of both the sole Member of the Company and the sole Manager of the Company.

ARTICLE 1

BACKGROUND AND CURRENT EXISTENCE

1.1 Formation. The Company is a limited liability company that was formed under the laws of the State of New York by the filing of Articles of Organization with the Secretary of State of the State of New York on August 18, 2020.

1.2 Name. The name of the Company is R. J. CORMAN RAILROAD COMPANY/OWEGO & HARFORD LINE, LLC.

1.3 Purpose and Powers. The purpose for which the Company exists is to engage in any lawful act, business or activity for which limited liability companies may be formed under the laws of the State of New York. The Company has any and all powers which are necessary to carry out the purposes and business of the Company, to the extent the same may be legally exercised by limited liability companies under the New York Limited Liability Company Law ("NYLLCL").

1.4 Term. The term of the Company began on the date of the filing of the Articles of Organization with the Secretary of State of the State of New York, and shall continue perpetually, unless the Company is dissolved, its business is discontinued and its affairs are wound up pursuant to the provisions of this Agreement and the NYLLCL.

1.5 Principal Office. The mailing address of the current principal office of the Company is 101 R. J. Corman Drive, P. O. Box 788, Nicholasville, Kentucky 40356. The Manager may change the principal office and establish additional places of business as it deems necessary or desirable to conduct the business of the Company.

1.6 Registered Agent and Registered Office. The Company's current registered agent for service of process is Registered Agent Solutions, Inc., and the current registered office is at 99 Washington Avenue, Suite 1008, Albany, NY 12260. The registered agent and registered office may be changed by the Manager from time to time.

1.7 Units Representing Interests. Ownership interests in the Company are referred to as Units. Each issued and outstanding Unit represents a proportionate interest in the Company

relative to all issued and outstanding Units which are delineated in Exhibit A hereto. For example, if a Member owns ten (10) Units and there are one hundred (100) Units outstanding, the Member owns ten percent (10%) of the Company. There is and shall be only one class of Units. Each Unit shall be entitled to one vote with respect to matters of the Company submitted for a vote, provided the owner of such Units (a "Unitholder") is a Member of the Company. The Units may, but need not be, evidenced by a certificate issued by the Company.

1.8 Nature of Units. The Units shall be personal property for all purposes. Legal title to the Company assets shall be held in the name of the Company, and no Unitholder or other Unitholder shall have any right, title, or interest in or to any Company property or the right to partition any property owned by the Company.

ARTICLE 2 PARENT AS SOLE INITIAL MEMBER AND MANAGER

2.1 Parent as Sole Member of the Company. Parent is the sole initial Member of the Company, effective as of the Company's formation.

2.2 Parent as Manager of the Company. Parent has agreed to serve as the Manager of the Company and to manage the Company in accordance with the provisions of this Agreement.

ARTICLE 3 MANAGEMENT

3.1 Member and Management. Except as otherwise set out herein, the Manager shall have exclusive authority to manage the operations and affairs of the Company and to make all decisions regarding the business of the Company, subject only to those matters which are reserved for the vote or approval of the Members by the terms of this Agreement. It is understood and agreed that the Manager shall have all of the rights and powers of a member as provided in the NYLLCL and as otherwise provided by law, and any action taken by the Manager in accordance with this Article 3 shall constitute the act of, and serve to bind the Company and its Unitholders.

3.2 Specific Authority of Manager. In addition to all power and authority stated or implied by statute, or otherwise by operation of law, and subject to the limitations on such power and authority contained in Section 3.1, the Manager generally shall have all rights, power and authority necessary, appropriate, desirable or incidental to carry out the conduct of the Company's ordinary business, including, but not limited to, the right, power and authority:

- (A) to incur and pay all costs, expenses and expenditures, including payments and reimbursements to a Unitholder or affiliates of a Unitholder in accordance with this Agreement, incurred in good faith in the course of the conduct of the Company's business;
- (B) to finance the operation of the Company's business by causing it to borrow funds upon such terms and conditions as the Manager deems proper, which

financing may be secured by one or more security interests on the property or assets of the Company, to take any and all actions and to execute, acknowledge and deliver all documents in connection therewith; provided, however, that the Manager shall have no right or power to create or impose personal liability on a Unitholder for any of the Company's obligations without the express written consent of the Unitholder;

(C) to employ and dismiss from employment any and all employees, agents, independent contractors, consultants, appraisers, attorneys and accountants, and to pay such fees, expenses, salaries, wages or other compensation to such individuals as the Manager determines to be reasonable;

(D) to acquire, purchase or contract to purchase, or sell or contract to sell or to lease or hire any property, real or personal, including interests in general and limited partnerships, limited liability companies, and other entities, and to pay the purchase price or make the capital contribution required therefor, for any purposes connected with the Company's ordinary business;

(E) to sell property of the Company, or any other assets of the Company, or any interest therein, at any time and upon such terms as the Manager determines to be in the best interest of the Company;

(F) to pay, extend, renew, modify, submit to arbitration, prosecute, defend or compromise, upon such terms as the Manager deems proper and upon any evidence as it may deem sufficient, any obligation, suit, liability, cause of action or claim, either in favor of or against the Company;

(G) to pay or cause to be paid any and all taxes, charges or assessments that may be levied, assessed or imposed on any of the property or assets of the Company;

(H) to invest funds which, in the judgment of the Manager, are not immediately required for the conduct of the Company's business, in such investments as may be selected by the Manager; which investments may include loans to individuals, corporations, partnerships, or other entities affiliated with the Company or a Unitholder;

(I) to execute, acknowledge, and deliver any and all instruments to effectuate any and all of the foregoing;

(J) to appoint such directors, officers, superintendents and other executives as the Manager may deem appropriate to assist in the management of the day to day operations of the Company and to delegate and limit, from time to time, such powers and authority to such executives as the Manager may see fit.

(K) to, subject to the limitations of item (J) above, create within the Company one or more operating divisions, to appoint such officers, superintendents, and other

executives for any division so created as the Manager may deem appropriate to assist in the day to day operations of that division, and to delegate such power and authority to such division executives as the Manager may see fit.

(L) to remove, at its pleasure, any officers or other executives appointed pursuant to items (J) and (K) above.

(M) to execute or file any document required or permitted to be executed or filed on behalf of a limited liability company under the NYLLCL;

3.4 Permanency of Parent as Manager and Sole Unitholder. Parent shall be the sole Manager and Unitholder of the Company at all times prior to the expiration of this Agreement.

3.5 Fees to a Unitholder and Affiliates. The Manager may cause the Company to contract with a Unitholder or any entity in which the Unitholder may have an interest or any affiliated corporation or entity of the Unitholder, at reasonable and competitive rates of compensation, commission or remuneration, for the performance of any and all services which may at any time be necessary, proper or convenient to carry on the business of the Company. The validity of any transaction, agreement or payment involving the Company and a Unitholder or any affiliate thereof otherwise permitted by the terms of this Agreement shall not be affected by reason of the relationship between the Company and a Unitholder or such affiliate.

3.6 General Voting Requirements. Except as may be otherwise expressly provided for in this Agreement, decisions with respect to the management of the business and affairs of the Company shall be by the vote of the Manager. With respect to any matters to be voted on by the Members, as described in this Agreement, only a Unitholder who is also a Member shall be entitled to vote.

3.7 Time and Attention of Manager and Unitholder to Business. Subject to the terms of this Agreement, the Manager shall manage or cause to be managed the affairs of the Company in a prudent and businesslike manner and shall devote such time to the Company affairs as it shall, in its discretion (exercised in good faith), determine is reasonably necessary for the conduct of such affairs; but neither the Manager nor any Unitholder shall be required to devote its entire time or attention to the business of the Company unless required by some other agreement.

3.8 Form of Actions. Any vote to be taken hereunder may be taken without a meeting.

3.9 Liability of Unitholder and Manager for Actions or Omissions. In carrying out their respective duties hereunder, neither a Unitholder nor a Manager shall be liable to the Company for good faith actions or failure to act, nor for any errors of judgment, nor for any act or omission believed in good faith to be within the scope of authority conferred by this Agreement, but only for their own willful or fraudulent misconduct in the performance of their obligations under this Agreement, or for gross negligence or breach of their fiduciary duties under this Agreement.

3.10 Indemnification and Hold Harmless for Actions. The Company does hereby agree to indemnify and hold harmless a Unitholder and its agents, officers and employees, as to third parties, against and from any personal loss, liability or damages suffered as a result of any act or omission which the Unitholder believed, in good faith, to be within the scope of authority conferred by this Agreement, except for willful or fraudulent misconduct, gross negligence or breach of fiduciary duties, but not in excess of the capital contributions of the Unitholder or its predecessor in interest. Notwithstanding the foregoing, the Company's indemnification of a Unitholder and its agents, officers and employees as to a third party shall only be to the extent that such loss, liability or damage is not otherwise paid or compensated for by insurance carried by the Company.

ARTICLE 4 MEMBERS

4.1 No Personal Liability of a Unitholder. A Unitholder shall not be personally held accountable for any of the debts, losses, claims, judgments or any of the liabilities of the Company beyond the contributions of a Unitholder or a Unitholder's predecessor to the capital of the Company.

4.2 Transferee of Units as Member. Notwithstanding anything to the contrary in this Agreement, a permitted transferee of any Units may become a Member only upon unanimous written consent of all Members who own Units immediately following the transfer. Any such transferee, if so admitted as a Member, shall, to the extent of the Units assigned, be entitled to the rights and powers, and shall be subject to the restrictions and liabilities of a Member, whether such rights, powers, restrictions and/or liabilities are derived from this Agreement or otherwise.

4.3 Voluntary Withdrawal of Member. The withdrawal of a Member by voluntary act shall constitute a breach of this Agreement, and in such event the Company may recover damages and make any offsets permitted by the NYLLCL.

4.4 No Removal of Initial Member. The initial Member shall not be removed prior to expiration of this Agreement.

4.5 Return of Capital. Except as otherwise provided herein, a Member may not withdraw or demand the return of any part of its capital from the Company except upon dissolution of the Company.

ARTICLE 5 ALLOCATIONS AND ACCOUNTING

5.1 Profits and Losses. The following shall apply with respect to the allocation of profits, losses and non-liquidating distributions:

(A) Except as otherwise provided herein, profits and losses of the Company, as computed in accordance with generally accepted accounting principles (including profits and losses attributable to the sale or other disposition of all or any portion of the Company's property),

as well as all items of tax credit and tax preference, and any distributions, whether liquidating or non-liquidating, shall be allocated among or borne by the respective Unitholders in proportion to the number of issued and outstanding Units owned.

(B) Notwithstanding any provision of this Agreement to the contrary, to the extent required by law, any income, gain, loss and deduction attributable to property contributed to the Company by a Unitholder shall be allocated among the Unitholders so as to take into account any variation between the tax basis of the property and the fair market value thereof at the time of contribution, in accordance with the requirements of Section 704(c) of the Internal Revenue Code of 1986 (the "Code"), as amended, or its counterpart in any part of the Code subsequently enacted, and the applicable Treasury Regulations (the "Regulations") thereunder.

(C) Company profits, losses and gains shall be allocated to the Unitholders in accordance with the portion of the year during which the Unitholders have held their respective Units. All items of income and loss shall be considered to have been earned ratably over the fiscal year of the Company.

(D) Notwithstanding any provision of this Agreement to the contrary, in the event the Company is entitled to a deduction for imputed interest under any provision of the Code on any loan or advance from a Unitholder, such deduction shall be allocated solely to such Unitholder.

(E) Notwithstanding any provision of this Agreement to the contrary, if items of income or gain to be allocated include income or gain treated as ordinary income for federal income tax purposes because they are attributable to the recapture of depreciation under Section 1245 or 1250 of the Code, then such income or gain, to the extent treated as ordinary income, shall be allocated to, and reported by, the respective Unitholders in proportion to their then respective cumulative allocations of depreciation.

(F) No election will be made to exclude the Company from the application of the provisions of the subchapter K of the Code or from any similar provisions of the state of New York tax laws. If a Company interest is transferred or Company assets are distributed to the Member, the Member may cause the Company to elect to adjust the basis of the Company's assets for federal income tax purposes under Code Sections 734 and 743.

5.2 Accounting Matters. Company accounting matters shall be handled as follows:

(A) The Company books shall be kept in accordance with generally accepted accounting principles consistently applied.

(B) The fiscal year of the Company shall end on December 31.

**ARTICLE 6
CAPITAL ACCOUNTS AND CAPITAL CONTRIBUTIONS**

6.1 Capital Account of Member. The Company's current capital shall be deemed to be the capital account of the Unitholder as of the date of this Agreement. Subsequent capital contributions may only be required of a Unitholder and shall only be required in *pro rata* portions equal to the *pro rata* portion of the number of Units held by each Unitholder as to the total of the then outstanding Units of the Company. A Unitholder's liability is limited in all respects to the Unitholder's capital contribution, and a Unitholder shall not be required to make any subsequent capital contribution without the prior affirmative majority vote of the Units held by Members.

6.2 No Interest on Capital Contribution. No interest shall be paid on any contribution to the capital of the Company.

6.3 Capital Accounts. The Unitholder's capital account shall be maintained as follows:

(A) The amount of the Unitholder's contribution of cash, property, and/or services to the capital of the Company shall be credited to such Unitholder's capital account. The determination of the Unitholder's capital account, and any adjustments thereto, shall be made in a manner consistent with tax accounting and other principles set forth in Section 704 of the Code and applicable Regulations thereunder.

(B) If, at any time, the Company shall suffer a loss, as a result of which the capital account of the Unitholder shall be a negative amount, such loss shall be carried as a charge against the Unitholder's capital account, and that Unitholder's share of subsequent profits of the Company shall be applied to erase such capital account deficit.

(C) Immediately following the transfer of any interest in the Company, the capital account of the transferee shall be equal to the capital account of the transferor/Unitholder attributable to the transferred interest.

(D) For purposes of computing the amount of any item of income, gain, deduction or loss to be reflected in the Unitholder's capital account, the determination, recognition and classification of any such item shall be the same as its determination, recognition and classification for federal income tax purposes, taking into account any adjustments required pursuant to Section 704 of the Code and the applicable regulations thereunder.

ARTICLE 7 TRANSFER OF MEMBER'S INTEREST

7.1 Transfers.

No transfer of a Unitholder's Units shall be allowed unless it is consistent with and in accordance with this Agreement. Nothing in this Agreement shall entitle any transferee of Units to vote the Units held by the transferee in the Company unless such Unitholder is admitted as a Member; provided, however that any such transferee shall otherwise have all other rights with respect to the Units as any Member would have.

7.2 Voluntary and Involuntary Transfers. The Unitholders may not sell, assign, transfer, pledge, hypothecate, encumber or otherwise dispose of their Units except as provided in this Article. Any purported transfer which is not in compliance with the provisions of this Article 7 shall be void *ab initio* and the Unitholder purporting to make such transfer shall for all purposes hereof remain a Unitholder. If any Unitholder's Units are sought to be transferred by any involuntary means, including, but not by way of limitation, attachment, garnishment, execution, levy or seizure, then the Unitholder shall take all reasonable steps to prevent the transfer. Upon the failure or neglect of a Unitholder to prevent an involuntary transfer, the transferee may not become a substitute Member, without the consent of the other Members, and shall only have the rights granted to a non-Member Unitholder hereunder.

7.3 Permitted Pledge of or Other Imposition Liens or Encumbrances on Units. Notwithstanding anything in this Article 7 or elsewhere in this Agreement to the contrary, Units of the Company may be pledged or otherwise be made the subject of a lien or encumbrance for purposes of obtaining financing deemed necessary or appropriate for the Company, the Member or any of their affiliates to obtain financing in furtherance of the operation or expansion of all or part of their respective businesses. The determination of such necessity or appropriateness shall be determined by the Trustees of the Richard J. Corman Living Trust based on a majority vote of a quorum consisting of such Trustees.

7.4 No New Member(s). No new Member may be admitted to the Company prior to the expiration of this Agreement.

ARTICLE 8 DISSOLUTION AND TERMINATION

8.1 Dissolution. The Company shall not terminate or dissolve without the consent of all Members.

8.2 Winding Up. In the event of the dissolution and winding up of the Company, the business and affairs of the Company shall continue to be governed by this Agreement during the winding up of the Company's business and affairs.

ARTICLE 9 INDEMNIFICATION OF PERSONS ACTING FOR OR ON BEHALF OF COMPANY

The Company may indemnify any person who was or is a party or is threatened to be made a party to any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative, or investigative (other than an action by or in the name of the Company), by reason of the fact that he/she/she is or was a director, officer, employee or agent of the Company or is or was serving at the request of the Company as a director, officer, employee or agent of another legal entity, against expenses (including attorney's fees), judgments, fines and amounts paid in settlement actually

and reasonably incurred by him/her in connection with such action, suit or proceeding, if he/she acted in good faith and in a manner he/she reasonably believed to be in the best interests of the Company, and, with respect to any criminal action or proceeding, he/she had no reasonable cause to believe his/her conduct was unlawful. The termination of any action, suit or proceeding by an adverse judgment, order, settlement, conviction or upon a plea of *nolo contendere* or its equivalent, shall not, of itself, create a presumption that the person did not act in good faith and in a manner which he/she reasonably believed to be in the best interests of the Company and, with respect to any criminal action or proceeding, had reasonable cause to believe that his/her conduct was unlawful. Any indemnification, in such cases, shall be made by the Company only as authorized in the specific situation upon a determination that indemnification of the director, officer, employee or agent is proper in the circumstances because he/she has met the applicable standards of conduct set forth hereinabove. Such determination shall be made by the Trustees of the Richard J. Corman Living Trust by a majority vote of a quorum consisting of Trustees who were not parties to such action, suit or proceeding. To the extent that a director, officer, employee or agent of the Company has been successful on the merits or otherwise in defense of any action, suit or proceeding referred to herein, or in defense of any claim, issue or matter therein, he/she shall be indemnified against expenses (including attorney's fees) actually and reasonably incurred by him/her in connection therewith.

Expenses (including attorney's fees) incurred in defending a civil or criminal action, suit or proceeding may be paid by the Company in advance of the final disposition if so authorized by Trustees of the Richard J. Corman Living Trust by a majority vote of a quorum consisting of Trustees who were not parties to such action, suit or proceeding, or, upon receipt of an undertaking by or on behalf of the director, officer, employee or agent to repay such amount unless it shall be ultimately determined that he/she is entitled to be indemnified by the Company as authorized in this Article.

The indemnification provided by this Article shall not be deemed exclusive of any other rights to which one indemnified may be entitled under any statute, agreement, or vote of disinterested Trustees, both as to action in his/her official capacity and as to action in another capacity while holding such office and shall continue as to a person who has ceased to be a director, officer, employee or agent, and shall inure to the benefit of the heirs, executors and administrators of such person

ARTICLE 10 MISCELLANEOUS

10.1 Notices. Any and all notices or other communications which may be sent to Member shall be sent to the address delineated for such Unitholder in Exhibit A, unless the Company is notified in writing with regard to a change of address. The Unitholder may change its address for all purposes of the Agreement by giving notice in writing, stating its new address to the Company. Such a change of address will be effective fifteen (15) days after the notice is received by the Company.

10.2 Governing Law. This Agreement shall be governed by, and construed in accordance with, the laws of the State of New York.

10.3 Counterparts. This Agreement may be executed in multiple counterparts, each of which shall be deemed an original and all of which together shall constitute one agreement, by

each of the parties hereto on the dates indicated in the acknowledgment of said parties, notwithstanding that all of the parties are not signatories to the same part or that signature pages from different parts are combined. The signature of any party to any part shall be deemed to be a signature to and may be appended to any other part.

10.4 Gender and Captions. Words of gender used in this Agreement shall be interpreted to include the neuter and the other gender, and words in the singular number shall be interpreted to include the plural (and vice-versa), when the tense so requires. The captions to each Article are inserted only as a matter of convenience and for reference purposes and in no way define, limit or describe the scope or intent of this Agreement, or in any way affect it.

10.5 Integration. This Agreement contains the entire understanding between the parties and supersedes any prior understandings and agreement between them concerning the within subject matter. There are no representations, agreements, arrangements or understandings, oral or written, between the parties hereto relating to the subject matter of this Agreement which are not described herein. The Agreement will include all schedules and exhibits as presently appended and as they may be amended from time to time.

10.6 Inconsistency with Law. If any provision of this Agreement or its application to any person or circumstance shall, for any reason and to any extent to be found to be invalid or unenforceable, the remainder of this Agreement or the application of such provision to other persons or circumstances shall not be affected thereby, but rather shall be enforced to the greatest extent permitted by law.

10.7 Inurement. This Agreement, and all the terms and provisions hereof, shall be binding upon and shall inure to the benefit of the parties and their respective legal representatives, heirs, permitted successors and permitted assigns.

10.8 Cumulative Rights. The rights and remedies provided in this Agreement are cumulative, and the use of any right or remedy does not limit a party's right to use any or all other remedies. All rights and remedies in this Agreement are in addition to any other legal rights the parties may have.

10.9 Confidentiality. To the extent practical and consistent with the lawful and efficient administration of the Company and Parent, as determined in the sole discretion of Parent's member(s), no Unitholder or transferee may divulge to others any information not already known to the public pertinent to the services, customers or operations of the Company, whether before or after the Company's dissolution.

10.10 [INTENTIONALLY OMITTED].

10.11 Non-waiver of Breach. Any party's failure to seek redress for violation of or to insist upon the strict performance of any provision of this Agreement will not prevent a subsequent act, which would have originally constituted a violation, from having the effect of an original violation.

10.12 Interpretation. In interpreting this Agreement, if this Agreement contains language contrary to the NYLLCL and the NYLLCL permits the operating agreement of a limited liability company to modify the otherwise conflicting provision of the NYLLCL, then this Agreement shall control. However, if this language contains language contrary to the NYLLCL and the NYLLCL does not permit the operating agreement of a limited liability company to modify the otherwise conflicting provision of the NYLLCL, then such provision of the NYLLCL shall control. Where this Agreement is silent as to a matter covered by the NYLLCL then the applicable NYLLCL provision shall be applicable. Where the NYLLCL is silent as to a matter covered by this Agreement, then the applicable provision of this Agreement shall be applicable. Notwithstanding the foregoing interpretational provisions of this Section 10.10, the provisions of Article 11 shall supersede the terms of this Section 10.12.

10.13 Amendment of Agreement. This Agreement may be amended from time to time by the Members.

[SIGNATURE PAGE TO FOLLOW]

IN WITNESS WHEREOF, the Company, the Member and the Manager have executed and entered into this Agreement, each in their respective capacities as stated above, as of the date first written above.

R. J. CORMAN RAILROAD
COMPANY/OWEGO & HARFORD LINE, LLC

R. J. CORMAN RAILROAD COMPANY,
LLC

BY: R. J. CORMAN RAILROAD COMPANY,
LLC, SOLE MEMBER

BY: 
RAYMOND GOSS, PRESIDENT

COMPANY

BY: 
RAYMOND GOSS, PRESIDENT

MEMBER AND MANAGER

EXHIBIT A

UNITS

100

OWNER

R. J. CORMAN RAILROAD COMPANY, LLC
101 R J Corman Drive
P.O. Box 788
Nicholasville, Kentucky 40340

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

FINANCE DOCKET NO. 36430

**R. J. CORMAN RAILROAD COMPANY/OWEGO & HARFORD LINE, LLC –
NOTICE OF MODIFIED CERTIFICATE OF PUBLIC
CONVENIENCE AND NECESSITY**

**NOTICE OF MODIFIED CERTIFICATE OF PUBLIC CONVENIENCE AND
NECESSITY
UNDER 49 C.F.R. § 1150.23 *et seq.***

**EXHIBIT B
OPERATING AGREEMENT**

OPERATING AGREEMENT

AGREEMENT

THIS AGREEMENT effective the 13th day of February, 2013 by and between the **Tioga County Industrial Development Agency (TCIDA)**, and the **Owego & Harford Railway, Inc. (OHRY)**, a Pennsylvania corporation, authorized to do business in the State of New York.

WITNESSETH

WHEREAS, TCIDA is the owner of a certain rail line extending from the Village of Owego to the Town of Harford; and

WHEREAS, under General Municipal Law section 854, an industrial development agency has the authority to own a rail line but must contract the operation thereof which section provides that the primary purpose of the railroad facility not be for passenger service; and

WHEREAS, TCIDA and OHRY have engaged in a previous contract for rail service dated January 1, 2006 for a term of ten (10) years with renewal periods; and

WHEREAS, the OHRY has stated that it is unable to invest further capital into the rail line and its machinery without some commitment upon the part of the TCIDA to extend the term past its current expiration period of December 31, 2020 and

WHEREAS, TCIDA is willing to extend the term provided that OHRY agrees to the terms and conditions contained herein; and

WHEREAS, TCIDA and OHRY have agreed to the terms set forth herein.

NOW THEREFORE, the parties intending to be legally bound agree as follows:

AGREEMENT

Section 1. Use of the Line of Railroad. TCIDA hereby agrees to provide OHRY access to and use of the line of railroad which shall include, but not be limited to

property of every kind and description, real, personal and mixed, including the right-of-way roadbed, tracks, track materials, signals and other facilities, including use of the depot building located in the Village of Owego, and appurtenances located in the Counties of Tioga and Cortland in the State of New York. OHRY shall have the right to use the line of railroad for exclusive railroad service thereon during the term of this Agreement, or any extension, or renewal thereof, subject to the terms and conditions hereinafter contained.

Section 2. Operating Fees and Other Payments.

(a) Operating Fees. Commencing on the effective date of this agreement OHRY shall pay TCIDA on gross revenues, including but not limited to freight rail service, storage services, rentals, and the like and excluding only revenues from passenger/tourism services, the following:

(1) For years 2013 through December 31, 2015, OHRY shall pay to the TCIDA:

- ◆ Ten (10%) percent on all gross revenues up to of \$800,000.00
- ◆ Five (5%) percent on all gross revenues in excess of \$800,000.00

(2) For years 2016 through December 31, 2020, OHRY shall pay to the TCIDA:

- ◆ Ten (10%) percent on all gross revenues up to of \$1,000,000.00
- ◆ Five (5%) percent on all gross revenues in excess of \$1,000,000.00

(3) For years 2021 through December 31, 2024, OHRY shall pay to the TCIDA:

- ◆ Ten (10%) percent on all gross revenues up to \$1,200,000.00
- ◆ Five (5%) percent on all gross revenues in excess of \$1,200,000.00

(4) For years 2025 through December 31, 2028, OHRY shall pay to the TCIDA:

- ◆ Ten (10%) percent on all gross revenues up to an amount to be agreed upon by the parties, but in no event less than \$1,200,000.00
- ◆ Five (5%) percent on all gross revenues in excess of an amount to be agreed upon by the parties, but in no event less than \$1,200,000.00

(b) Real Property Taxes and Special Assessments. OHRY shall pay 100% of the amount of any special assessments or taxes levied upon TCIDA for the rail line and buildings or other such structures used by or in connection with this Agreement by OHRY.

(c) Property Insurance. OHRY shall pay 100% of the amount of any property and liability insurance maintained for buildings or other such structures, other than rail lines, bridges and related rail items such as spurs, gates, et al., used by or in connection with this Agreement by OHRY.

(d) Building Maintenance and Repair. OHRY shall pay all maintenance, repair and upkeep expenses of all buildings or other such structures used by or in connection with the Agreement by OHRY.

(e) Subcontracts. If OHRY subcontracts any of the freight, the amount paid to OHRY shall be included in its gross revenue calculations. Any subcontractor shall agree to abide by all of the terms and conditions of this Agreement and file an insurance certificate with the TCIDA prior to commencement of any operations. Such insurance shall be in the limits and form as is required of OHRY under Section 5 (g) of this Agreement. Any subcontractor shall also provide all documentation required under paragraph 15, below.

(f) Payments. Payments shall be made on a monthly basis with each payment for each individual month be due and payable within 45 days. Any payment received more than 45 days after it is due, shall be subject to a late fee of 4% of the amount due and payable.

(g) Other Charges. OHRY shall also pay and discharge, on or before the 1st day on which payment may be made without penalty or interest, excise, license and permit fees, and other governmental impositions and charges which shall or may during their term hereof be charged, laid, assessed, imposed, become due and payable, become a lien upon, or arising in connection with the use or operation of the line of railroad for freight service. OHRY shall have the right to contest any such taxes or other charges by appropriate legal proceeding, conducted at its own expense, providing the OHRY shall furnish to TCIDA a surety bond or other security satisfactory to cover the amount of the contested item or terms, with interest and penalty for the period which such proceedings may be expected to take.

(h) In the event OHRY ceases operations during the term of this Agreement, or any renewal thereof, it shall be required to pay to the TCIDA a monthly amount equal to the average monthly payment made by OHRY under this Agreement during the preceding thirty-six (36) month period. This obligation shall continue until the termination of this Agreement, or any renewal thereof, or until such time as a successor entity commences operations on the TCIDA rail line, whichever occurs first.

Section 3. Conditions of Railroad Premises. OHRY has inspected the line of railroad and accept the same in "as is" condition. TCIDA makes no representation or warranty as to the physical condition of the line of railroad or the condition of legal title (other than for railroad purposes). OHRY shall maintain and return the line of railroad to the TCIDA in its current class condition or such higher standard should the standard of the track and/or bridges or any portions thereof be at a higher class at any time during the term of this Agreement.

Section 4. Provision of Additional Equipment and Facilities. OHRY shall be responsible for providing all equipment and facilities required for operation of the line of railroad and not part of the premises provided hereunder. Such equipment and facilities shall include, but shall not be limited to, locomotives, rolling stock, maintenance equipment, office space and such other facilities and equipment as are required to provide rail freight service over the line of railroad as contemplated by this Agreement. Such equipment shall be maintained in good repair and shall be inspected and maintained as required by any state or federal law or regulation.

Section 5. OHRY Obligations. OHRY agrees that it will comply with the requirements of General Municipal Law Section 854 as it pertains to Railroad facilities and will at all times during the continuance of this Agreement:

- (a) Operate all services in accordance with all federal, state, and local requirements and shall be responsible for obtaining all governmental approvals, authorizations, franchises, licenses and permits as may be prerequisite to the rendering of such service;
- (b) Observe and comply with any and all requirements of the constituted public authorities and with all federal, state and local statutes, ordinances, regulations and standards applicable to OHRY or its use of the line of railroad;
- (c) Install, maintain and operate at its own expense the line of railroad, including grade crossings and grade crossing protection devices and related

facilities used/occupied by OHRY thereon in good operating condition and repaired in a manner consistent with sound, accepted engineering principles and maintain the track to minimum FRA Class 1 Standards or of such higher standards should the Class of the track be raised due to rehabilitation grants or other such monies including the current rehabilitation projects;

(d) Repair or replace at its own expense, any bridges, rails, ties and other items of track or signaling equipment as may be necessary to keep the line of railroad in good operating condition. Any and all repairs shall be completed in a timely fashion. If OHRY fails to make such timely repairs, nothing in this agreement shall prevent the TCIDA from making repairs; the reasonable value of such repairs shall be the responsibility of OHRY. In the event of any such replacement at the expense of OHRY the new property shall become the property of TCIDA;

(e) Fully indemnify, defend and hold harmless TCIDA, its officers, agents, employees, successors and assigns, against all claims, suits, actions or judgments, based upon or arising out of damage or injuries to persons or property caused by the negligence of OHRY or its agents, employees, guests, invitees, contractors, suppliers of materials, or furnishers of services in the use, maintenance and occupancy of the line of railroad;

(f) Be liable, defend and indemnify the TCIDA for any damages, harm or injury to the line of railroad caused by the negligence of the OHRY, its agents, guests, customers, invitees, licensees, contractors or employees;

(g) Maintain a policy or policies of liability insurance, covering OHRY operations solely, to insure itself against liability for injury or damage to persons and property, with a carrier rated B++ or better with AM Best & Co. or as otherwise acceptable to the TCIDA if no such company is available, and in which policies will be in the minimum amounts set forth below:

<u>TYPE</u>	<u>LIMITS</u>
Comprehensive General Liability	For all claims \$20,000,000 per occurrence, \$10,000,000
Federal Employer's Liability Act	Covered by blanket policy
Cargo Legal Liability	Covered by blanket policy
Foreign Rolling Stock	Covered by blanket policy

Automobile Liability

Covered by blanket policy

Pollution/Environmental
Liability

For all claims \$10,000,000 per claim

- (h) Cause TCIDA to be named as an additional insured and provide a copy of the policy and endorsement naming TCIDA as an additional insured under each such policy and furnish TCIDA with appropriate certificates of such insurance which shall specifically state that the insurance company shall furnish to TCIDA at least thirty (30) days' notice of any lapse or material changes in such insurance;
- (i) Peacefully deliver up and surrender possession of the line of railroad to TCIDA at the expiration or other termination of this Agreement;
- (j) Only on written TCIDA approval and if necessary the New York State Department of Transportation, remove, replace, or relay elements of the track or structures on the line of railroad in the interest of cost and/or operating efficiency, provided that a continuous and useful, rail transportation facility is maintained. Improvements or additions made by OHRY to the track, right of way, structures or any facilities shall become the property of TCIDA, including additional facilities, switching devices, rail spurs and the like;
- (k) Allow members of TCIDA or its designee(s) an opportunity upon reasonable notice to inspect any portion of the line of railroad including permission to ride any and all trains operated by OHRY provided such members comply with all safety rules;
- (l) At the end or prior to the end of each calendar year, provide TCIDA with a written report of its sales programs for the upcoming year. A marketing plan may also be requested provided such marketing plan remains confidential;
- (m) At all times during this Agreement follow financially sound business practices and annually provide a compiled financial statement prepared by a certified public accountant to also include lists of creditors, lien holders and judgment holders, all pending or threatened litigation including the nature thereof and a written statement from OHRY's counsel as to the issues involved and expected outcome. OHRY shall allow the TCIDA to perform any additional audits, over and above those reports required annually, as requested by the Agency upon sixty (60) days written notice, but such audit shall be paid for by the Agency;
- (n) Have the rail line and bridges inspected annually and timely as required under New York State and federal laws and at its own expense and serve upon the TCIDA a copy of the certified rail and bridge inspection within thirty (30) days of receipt thereof. All required repairs or other such recommendations in

such reports shall be complied within 60 days of a reasonable time thereafter if circumstances of the repair/recommendations so require;

(o) By signing this agreement hereby gives its consent to any and all easements or other such uses requested or required by the TCIDA for whatever purposes and shall provide reasonable access to the leased property by the TCIDA, its agents or assigns, for any and all purposes. OHRY shall and by signing this agreement hereby gives its consent for access to the construction of any and all rail crossings and/or spurs and/or sidings requested by the TCIDA;

(p) Cooperate as required with the County of Tioga including the Tioga County Department of Economic Development and Planning to retain, expand and attract industry where there exists a potential to generate a net increase in rail freight to the benefit of both the OHRY and TCIDA;

(q) Clear all brush, weeds and debris in compliance with state and federal regulations along the leased premises, and to that end keep the leased premises in clean aesthetic environment. OHRY shall not be responsible for removal of existing debris. OHRY shall use only environmentally sound products and shall be responsible and indemnify defend and hold harmless the Agency for any environmental contamination resulting therefrom.

Section 6. Restrictions. OHRY further agrees that it will not:

(a) Occupy the line of railroad in any way or for any purpose unrelated to the operation of the line of railroad;

(b) Assign, mortgage, pledge or encumber the line of railroad, or any part thereof or assign its obligation under this Agreement without prior written consent of TCIDA; or

(c) Transport or handle hazardous, toxic or noxious commodities without requisite insurance.

Section 7. Relationship between OHRY and TCIDA. The OHRY and TCIDA, or its agent, shall meet at least quarterly to review and discuss cost, operations and service problems. OHRY shall inform the TCIDA and affected shippers of any major action or event related to the line of railroad which may affect rail freight service to those shippers as soon as such action or event is known to OHRY. The TCIDA will inform OHRY of any problems or concerns related to the rail freight service. OHRY is a private corporation and is an independent contractor and is not an agent of the TCIDA, except as provided for in Section 27. Whenever a written approval is required by OHRY from TCIDA, the signature of an approved officer will suffice to validate such written approval.

Section 8. Rents from Non-Operating Properties. TCIDA shall receive any and all rents arising from any leases of non-operating properties presently outstanding or to be negotiated on any portion of the line of railroad and any renewals thereof, including, but not limited to, rents, license fees, and other revenues paid by any party occupying a portion of the line of railroad including but not limited to rentals and fees for pipe and wire crossings, utility crossings, signboards, platform locations, driveways, storage facilities, parking lots, water rights, land rents, building rents and water tank rents, among other things. TCIDA shall collect such monies as they become due.

Section 9. Condemnation of the Line of Railroad. If the line of railroad, or any portion thereof, is condemned or taken by any competent authority for public use, the award for payment of damages resulting therefrom, or any amount paid in settlement thereof, shall be paid to and retained by TCIDA, except as hereinafter provided. If the entire line of railroad is taken or such substantial part thereof as shall materially impair or interfere with OHRY's proper use and enjoyment thereof, the Agreement shall automatically terminate as of the date of the taking. If only such portion of the line of railroad is taken as shall not materially impair or interfere with the OHRY's proper use and enjoyment thereof, this Agreement shall continue in full force and effect, and all proceeds of the condemnation award or payment shall first be used by TCIDA as may be required for the restoration of the line of railroad in such a manner as will enable the continuing operation thereof by the OHRY as herein above provided.

Section 10. Default. If during the term of this Agreement, there shall occur any of the events listed below ("Events of Default"), TCIDA may declare OHRY in default and proceed according to paragraph 11, below. Events of Default shall include but not be limited to the following:

- (a) OHRY fails to make any payments or fees provided for in this Agreement at such times as they are due and payable.
- (b) OHRY fails to perform any of its obligations under this Agreement.
- (c) OHRY makes an assignment for the benefit of the creditors or files a voluntary petition under any bankruptcy or insolvency law or is adjudicated as bankrupt or insolvent in voluntary or involuntary proceedings or seeks reorganization or receivership or similar relief; or
- (d) a proceeding against OHRY seeking reorganization or receivership or similar relief is not dismissed or vacated or stayed on appeal within sixty (60) days;

- (e) OHRY fails to maintain the line of railroad in accordance with the terms of this Agreement or fails to conduct its operation in a manner consistent with generally accepted railroad safety practices;
- (f) any conduct of its operations in such a manner so as to commit intentional waste to the line of railroad;
- (g) fails to discharge any claims or liens for materials and services for which OHRY becomes obligated while providing freight rail transportation service under this Agreement.

Section 11. Notice of and/or Failure to Cure Defaults. If an Event of Default occurs, TCIDA shall give written notice to OHRY of the default and give OHRY thirty (30) days to correct such default.

If OHRY fails to cure any default or if a OHRY shall not commence to comply within such period and thereafter complete with due diligence, TCIDA shall have the right, but not the obligation and in addition to all other remedies it may have hereunder and at law or in equity, to:

- (a) upon twenty-four hours written notice to OHRY undertake the performance of such obligations and obtain reimbursement from OHRY thereof; or
- (b) to terminate this agreement pursuant to paragraph 12, below.

Section 12. Termination and Termination Costs. This Agreement may be terminated as follows:

- (a) expiration of the term.
- (b) upon an Event of Default referenced above, by giving the other party at least 90 days' notice.

Each party shall bear its own termination costs unless such termination is judicially declared to be unjustified under the terms and conditions of the Agreement. This provision shall not apply to reimbursement of costs and expenses including reasonable attorney fees in any action or proceeding amongst the parties hereto and arising out of this Agreement.

Section 13. Waiver. Any waiver by either party under this Agreement or any breach by any other party shall not affect similar right subsequently arising nor operate as a waiver of subsequent breaches of the same or similar kinds nor as a waiver of the clause or condition under which said right arose or said breach occurred.

Section 14. Notice. Notice provided for herein shall be sufficient if sent by certified mail, postage prepaid, as follows:

To the TCIDA at:
Tioga County Industrial Development Agency
Attn: Business Administrator
56 Main Street
Owego, New York 13827

To the OHRY at:
Owego & Harford Railway, Inc.
Attn: President
25 Delphine Street
Owego, NY 13827

or such other address as either party may, from time to time designate to the other in writing.

Section 15. Access to Records.

(a) OHRY agrees to maintain and provide copies to TCIDA of documents supporting the gross revenues upon which payment under Section 2 is calculated including but not limited to carload interchange records and reports and such other records and reports necessary to permit TCIDA to fully verify statements of traffic, revenue, and expenditures furnished by OHRY on a monthly basis. An annual summation of car loadings and interchange report will be provided to TCIDA by February 28 of the following year. The report will be broken down by month, shall have car loadings by carrier/customer and will show applicable income paid to TCIDA.

(b) TCIDA shall have full access to these records and reports during normal business hours upon 48 hours written notice, duly given OHRY.

(c) OHRY will deliver to TCIDA compiled financial statements as prepared by an independent certified public accountant and an independent audit of freight revenue no later than June 15, for the year ending.

Section 16. Indemnification. OHRY shall indemnify, defend and hold the TCIDA harmless for any and all claims, demands or actions, arising or alleged to arise out of any acts or omissions related to its use, maintenance and operation of

the railroad and for any claims, demands or actions, arising or alleged to arise out of OHRY's obligations contained in this agreement. Should a conflict arise between the parties hereto, TCIDA shall have the right to employ independent counsel, at OHRY's expense, to provide legal counsel and/or to defend any such claim, demand or action.

Section 17 Force Majeure. Neither party hereto shall be held responsible or liable, either directly or indirectly, or be deemed in default or breach of this Agreement for any loss, damage, injury, delay, failure, or inability to meet all or any portion of its commitments hereunder caused by or arising from any cause which is unavoidable or beyond its reasonable control, including without limitation, war, hostilities, invasion, insurrection, riot, the order of any competent civil or military government, explosion, fire, strikes, lockouts, AAR service orders, actions of other carriers which materially affect OHRY's operations, labor disputes, perils of water including floods, ice, breakdowns, Acts of God including storms or other adverse weather conditions, derailments, washouts, wrecks or other causes of a similar or dissimilar nature which wholly or partially prevent the Parties or either of them from carrying out the terms of this Agreement; provided that the Party experiencing such force majeure shall be eliminated as soon as and to the extent reasonably possible and that each Party shall have the right to determine and settle any strike, lockout and labor dispute in which that Party may be involved in its sole discretion. In the event that one party's performance is suspended in whole or in part by force majeure, the other Party's obligation to perform hereunder shall be suspended or commensurately reduced for the duration of the force majeure and for such additional reasonable period as may be required because of the existence of the force majeure. In the event that one Party's performance hereunder is suspended by force majeure and cannot be resumed within a reasonable period of time, either party shall have the right to terminate this Agreement.

Section 18. Successors and Assigns. This Agreement shall inure to the benefit of and shall be binding upon the parties hereto and their respective successors and assigns. However, this provision shall not be construed to confer on OHRY any right or authority to assign all or any part of this Agreement without the TCIDA's prior consent.

Section 19. Entire Agreement. This Agreement contains the entire understanding of the parties with respect to its subject matter. Nor oral statement or prior written matter shall have any force or effect. The parties

hereby acknowledge that they are not relying on any representations or agreements other than those contained in this Agreement. This Agreement shall not be modified except by a written instrument subscribed by both parties hereto.

Section 20. Severability. If any term, covenant, condition or provision (or part thereof) of this Agreement or the application thereof to any person or circumstances shall, at any time or to any extent, be invalid or unenforceable, the remainder of this Agreement or the application of such term or provision (or remainder thereof) to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby, and each term, covenant, condition and provision of this Agreement shall be valid and be enforced to the fullest extent permitted by law.

Section 21. Terms. The terms of this agreement shall be TWELVE (12) years from effective date hereto unless terminated prior thereto in accordance with provisions of this Agreement. OHRY shall have an option to extend such term an additional four (4) year period by giving written notice to the TCIDA at least one year prior to the end of the lease term. This means that notice must be served upon the TCIDA no later than December 31, 2023.

Section 22. Enforcement. In the event either party is required to enforce any of its rights against the other, the prevailing party shall be reimbursed any costs and expenses including reasonable attorney fees regardless if such enforcement is prosecuted in any action.

Section 23. Applicable Law. This Agreement shall be construed in accordance with the laws of the State of New York.

Section 24. Extension of Terms and Conditions. TCIDA shall have the option to extend the terms and conditions of this agreement to any other TCIDA owned or acquired Lines of Railroad which connect to this line of railroad in order to avoid in whole or in part the duplication of existing enterprises performed by OHRY serving substantially the same purposes.

Section 25. Guarantee. The contractual obligations contained herein shall be personally guaranteed by Steven May and Cheryl May joint and severally.

Section 26. Assignability. This contract cannot be assigned either in part or in whole by any party hereto without the written consent of the other party.

Section 27. Rail Improvements. OHRY agrees to act as agent and act as Clerk of the Works for the Agency to ensure proper allocation and application of funds for the TCIDA from any and all rail enhancement or improvement projects including those administered by the State of New York, Department of Transportation, ISTEA, ARC, and the like. OHRY shall serve in such capacity upon approval of a majority of the board of directors and shall be compensated according to the pay scales of the sponsoring agency for such service including all incidental costs incurred in serving in such capacity. OHRY shall also be reimbursed for all additional out-of-pocket expenses incurred as a result of such rail enhancement programs including but not limited to inspection and flagging costs. Such reimbursement shall not include any loss of profits resulting from any rail enhancement programs.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by themselves or by their respective duly authorized officers as of the day and year first above written.

SEAL

TIOGA COUNTY INDUSTRIAL
DEVELOPMENT AGENCY

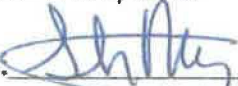
by:


Aaron Gowan, Chairman

SEAL

OWEGO & HARFORD
RAILWAY, INC.

by:


Steven C. May, President

We the undersigned hereby provide our personal guarantees for the contractual and monetary obligations of OHRY, but only in respect to the TCIDA. This guarantee does not flow to any third party, including third party beneficiaries of this Agreement.


Steven C. May


Cheryl May

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

FINANCE DOCKET NO. 36430

**R. J. CORMAN RAILROAD COMPANY/OWEGO & HARFORD LINE, LLC –
NOTICE OF MODIFIED CERTIFICATE OF PUBLIC
CONVENIENCE AND NECESSITY**

**NOTICE OF MODIFIED CERTIFICATE OF PUBLIC CONVENIENCE AND
NECESSITY
UNDER 49 C.F.R. § 1150.23 *et seq.***

**EXHIBIT C
LIABILITY INSURANCE**

**REGULATORY OFFICE**

505 Eagleview Blvd., Ste. 100

Dept: Regulatory

Exton, PA 19341-1120

Telephone: 800-688-1840

Insurance Company Providing Coverage: Indian Harbor Insurance Company**RAILROAD LIABILITY INSURANCE DECLARATIONS
CLAIMS-MADE**

NOTICE: THIS INSURANCE HAS BEEN PLACED WITH AN INSURER NOT LICENSED TO TRANSACT BUSINESS IN THE COMMONWEALTH OF KENTUCKY BUT ELIGIBLE AS A SURPLUS LINES INSURER. THE INSURER IS NOT A MEMBER OF THE KENTUCKY INSURANCE GUARANTY ASSOCIATION. SHOULD THE INSURER BECOME INSOLVENT, THE PROTECTION AND BENEFITS OF THE KENTUCKY INSURANCE GUARANTY ASSOCIATION ARE NOT AVAILABLE.

Policy Number: US00094711LI19A **Renewal or Replacement of:** New

Item 1. Named Insured: RJ Corman Railroad Group LLC
Address: 1 Jay Station Road
Nicholasville, KY 40356

Item 2. Policy Period: **From:** October 1, 2019 **To:** October 1, 2020
12:01 A.M. Standard time at the Named Insured's address stated above.

Item 3. Limits of Liability:
Each Occurrence: \$ 25,000,000
Policy Aggregate: \$ 50,000,000

Item 4. Self-Insured Retention:
Each Occurrence: \$ See Endorsement #002

Item 5. First Coverage Date: See Endorsement #003
(if applicable)

Item 6. Policy Premium: **Rate:** \$4.08 per \$100 of payroll, new acquisitions only.
Annual Exposure Estimate: N/A
Policy Premium: \$ 503,324
Premium for Acts of Terrorism: \$ 25,166
Total Policy Premium: \$ 528,490
Minimum and Deposit Premium: \$ 528,490
Minimum Premium: \$ 528,490

Item 7. Premium Audit Terms:
☐ Policy is not subject to audit ☒ Policy is subject to audit

Item 8. Form(s) and Endorsement(s) made a part of this policy at time of issue:

Endorsement Number	Endorsement Title
PN CW 02 0119	Notice To Policyholders – Privacy Policy
PN CW 01 0119	Notice To Policyholders – Fraud Notice
PN CW 05 0519	Notice To Policyholders – U.S. Treasury Department's Office of Foreign Assets Control ("OFAC")
IL MP 91 04 0314 IHIC	In Witness – Indian Harbor Insurance Company
RRL 100 0219	Railroad Liability Insurance Policy – Claims-Made Form
Endorsement #001 RRL 203 0911	Named Insured Schedule
Endorsement #002 MANUS 0043 0812	Self-Insured Retention Amendment
Endorsement #003 RRL 305 0911	First Coverage Date - Named Insured Schedule
Endorsement #004 MANUS 0154 0713	Limitation Of Coverage To Designated Premises And Or Railroad Equipment
Endorsement #005 RRL 300 0911	Deletion of Passenger Exclusion
Endorsement #006 IXI 403 0110	Exclusion Of Designated Entity
IL 0985 0115	Disclosure Pursuant to Terrorism Risk Insurance Act
Endorsement # 007 RRL 011 0115	Cap On Losses From Certified Acts Of Terrorism
Endorsement # 008 XL-KY-SOP 0118	Service of Process

Item 9. Producer Name: McGriff, Seibels & Williams, Inc.
Address: 2211 7th Avenue South
Birmingham, AL 35233

By: _____



THESE DECLARATIONS TOGETHER WITH THE COMMON POLICY CONDITIONS, COVERAGE PART COVERAGE FORM(S) AND FORMS AND ENDORSEMENTS, IF ANY, ISSUED TO FORM A PART THEREOF, COMPLETE THE ABOVE NUMBERED POLICY.

Date Issued: October 21, 2019