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ENTERED
Office of Proceedings
December 29, 2020
Part of
Public Record

29 December 2020

For E-Filing on or by 30 December 2020

(some colorized exhibits)

Ms. Cynthia T. Brown
Chief, Section of Administration
Surface Transportation Board
395 E Street, SW
Washington, DC 20423

Re: Midwest & Bluegrass Rail, LLC, Ivory Beggs,
Brian Miller, and Dustin Shaver, and
MB Rail TTI, LLC
-- Control Exemption --

FEE RECEIVED Transkentucky Transportation Railroad, Inc.
December 29, 2020 F.D. 36475
SURFACE
TRANSPORTATION BOARD

EXPEDITED TREATMENT OF MOTION FOR
PROTECTIVE ORDER in FD 36475 REQUESTED

FILED Note: Part of filing in F.D. 36475 is submitted under seal,
December 29, 2020 Confidential treatment requested

SURFACE TRANSPORTATION
BOARD

Dear Ms. Brown:

This is a cover letter on behalf of Midwest & Bluegrass Rail, LLC, et al., for
filings in the above referenced docket. The filings include the following:

- (1) a Notice of Exemption ("NOE") (public version) for a control exemption under 49 C.F.R. 1180.2(d);
- (2) Motion for a protective order (form of order attached) EXPEDITED TREATMENT REQUESTED;
- (3) Confidential versions of Exhibits B and C, submitted under seal.

By my signature below, I certify service by email attachment upon Louis Gitomer, Esq., 600 Baltimore Ave., Suite 301, Towson, MD 21204-4022, counsel for the seller (The Carrollton Railroad).

Thank you for your assistance in this matter.

Respectfully submitted,



Charles Montange
Counsel for

Midwest & Bluegrass Rail, LLC,
Avory Beggs, Brian Miller,
and Dustin Shaver, and MB Rail TTI, LLC

Attachments:

NOE

Motion for a protective order and proposed order

Documents under Seal

cc. Louis Gitomer, Esq. (for The Carrollton Railroad and CSXT)
(by email atts.)

BEFORE THE SURFACE TRANSPORTATION BOARD
FINANCE DOCKET NO. 36475

MIDWEST & BLUEGRASS RAIL, LLC,
AVORY BEGGS, BRIAN MILLER and DUSTIN SHAVER
and MB RAIL TTI, LLC
- CONTROL EXEMPTION -
TRANSKENTUCKY TRANSPORTATION RAILROAD, INC.

VERIFIED NOTICE OF EXEMPTION

Midwest & Bluegrass Rail, LLC ("MBR Rail"), Avory Beggs, Brian Miller, and Dustin Shaver (collectively "MBR"), all non-carriers, file this Verified Notice of Exemption under 49 C.F.R. 1180.2(d)(2) to acquire indirect control of TransKentucky Transportation Railroad, Inc. ("TTR"), upon the acquisition of all of the stock in TTR by MB Rail TTI, LLC ("MB Rail TTI"), a non-carrier, from The Carrollton Railroad ("Carrollton"), a wholly owned subsidiary of CSX Transportation, Inc. ("CSXT").

MBR Rail is owned by Ms. Beggs (34%), Mr. Miller (33%) and Dustin Shaver (33%). MBR will control MB Rail TTI per a management contract and a combined ownership interest of less than 30% (Ms. Beggs and Mr. Miller will be the designated managers of MB Rail TTI). MBR also controls other railroads through MB Rail IB, LLC ("MB Rail IB") per a management contract

and a combined ownership interest of less than 40% (Ms. Beggs and Mr. Miller are designated as the managers of MB Rail IB and its subsidiary railroads and supervise the day-to-day operations).

MB Rail IB owns the following railroads: Chesapeake & Indiana Railroad ("CIR"), Vermilion Valley Railroad ("VVR"), Camp Chase Rail, LLC ("CCR"), and Youngstown & Southeastern Railroad, LLC ("YSR") (collectively, the "Railroads").

The Railroads and TTR (i) will not connect with each other or any railroads in their corporate family, (ii) the acquisition or continuance in control is not part of a series of anticipated transactions that would connect the railroads with each other or any railroad in their corporate family, and (iii) the transaction does not involve a class I carrier.¹ Control of TTR by MBR Rail, Ms. Beggs, Mr. Miller and Mr. Shaver is thus exempt under 49 C.F.R. 1180.2(d)(2).

In accordance with the requirements of 49 C.F.R. 1180.4(g), MBR submits the following information:

<u>Description of Proposed transaction:</u>	<u>49 C.F.R.</u>
<u>1180.6(a)(1)(i)</u>	

¹ Although TTR is owned by Carrollton which is owned by CSXT, this transaction does not involve a Class I railroad acquiring (by subsidiary or otherwise) an entity or line from another railroad, and thus use of the notice of exemption process in 49 C.F.R. 1180.2(d) is appropriate. See *Railroad Consolidation Procedures*, 363 I.C.C. 200, 205 (1980) (acquisition of a non-connecting carrier or its lines by a Class I should be subject to additional analysis).

MB Rail TTI will acquire all the shares of TTR from Carrollton. MBR controls MB Rail TTI and will acquire control of TTR. TTR owns and operates a line of railroad between approximately Valuation Station 6086+60 on the south side of Vine Street in Paris, KY, and extending to terminus at Valuation Station 8681+00 in Maysville, KY, in Bourbon, Fleming, Mason and Nicholas Counties, KY. MB Rail TTI will be managed by MBR. Ms. Beggs and Mr. Miller are the designated managers for MB Rail TTI.

The railroads currently controlled by MBR as manager of MB Rail IB are summarized below:

1. Chesapeake & Indiana Railroad Company - Indiana. See *Indiana Boxcar Corporation--Continuance in Control Exemption--Chesapeake & Indiana Railroad Company, Inc.*, FD 34528 (served August 20, 2004); and *MB Rail IB, LLC--Acquisition and Continuance in Control Exemption--Chesapeake & Indiana Railroad, Vermilion Valley Railroad, Camp Chase Rail, LLC, and Youngstown & Southeastern Railroad, LLC*, FD 36413 (served July 1, 2020).

2. Camp Chase Rail - Ohio. See *Camp Chase Rail, LLC - Acquisition and Operation Exemption - Camp Chase Railway Company, LLC*, FD 36414 (served July 1, 2020); and *MB Rail IB, LLC--Acquisition and Continuance in Control Exemption--Chesapeake & Indiana Railroad, Vermilion Valley Railroad, Camp Chase Rail,*

LLC, and Youngstown & Southeastern Railroad, LLC, FD 36413
(served July 1, 2020).

3. Youngstown & Southeastern Railroad - Ohio/Pennsylvania.
See Youngstown & Southeastern Railroad, LLC - Acquisition and
Operation Exemption - Youngstown & Southeastern Railroad
Company, FD 36415 (served July 1, 2020); and MB Rail IB, LLC-
Acquisition and Continuance in Control Exemption-Chesapeake &
Indiana Railroad, Vermilion Valley Railroad, Camp Chase Rail,
LLC, and Youngstown & Southeastern Railroad, LLC, FD 36413
(served July 1, 2020).

4. Vermilion Valley Railroad Company - Illinois/Indiana.
See MB Rail IB, LLC-Acquisition and Continuance in Control
Exemption-Chesapeake & Indiana Railroad, Vermilion Valley
Railroad, Camp Chase Rail, LLC, and Youngstown & Southeastern
Railroad, LLC, FD 36413 (served July 1, 2020).

MBR anticipates no significant changes in rail service
currently provided over TTR as a result of this transaction.
MBR plans to use the line for rail purposes.

The full name and address of the applicants is:

Midwest & Bluegrass Rail, LLC, Ivory Beggs, Brian
Miller, and Dustin Shaver
10100 N Ambassador Drive, Suite 105
Kansas City, KS 64153

Any questions concerning this Notice should be sent to
MBR's representative at the following address:

Charles Montange
Law Offices of Charles Montange
426 NW 162d St.
Seattle, WA 98177
(206) 546-1936

Proposed Schedule for Consummation: 49 C.F.R.
1180.6(a)(1)(ii)

MBR expects to consummate acquisition on or about 30 days
after filing this Notice.

Purpose Sought to Be Accomplished: 49 C.F.R.
1180.6(a)(1)(iii)

The exemption sought herein will allow MBR to continue in
control of MB Rail TTI upon acquisition by MB Rail TTI of all
the shares of TTR. Authorization of control will facilitate
preservation of the line for future service to shippers. MBR
intends to continue common carrier rail service on the line.

States in Which Property of Applicant Is Located: 49
C.F.R. 1180.6(a)(5)

MBR Rail, Ivory Beggs, Brian Miller, and Dustin Shaver
(collectively MBR) are non-carriers and do not directly own rail
property (only stock/membership shares in companies that do).
MBR controls other railroads through management agreements in

the States of Illinois, Indiana, Ohio and Pennsylvania. TTR is located in Kentucky. MB Rail TTI is currently a non-carrier and will acquire the stock in a carrier (TTR) upon this Board's favorable action on this Notice of Exemption for continued control.

Map-Exhibit 1: 49 C.F.R. 1180.6(a)(6)

Maps showing the line (and all controlled railroad lines) are attached hereto in Exhibit A.

Agreement- Exhibit 2: 49 C.F.R. 1180.6(a)(7)(ii)

The draft Stock Purchase Agreement and draft Freight Operating Agreement (redacted/public versions) between MB Rail TTI and The Carrollton Railroad are attached as Exhibit B and C, respectively. MB Rail is separately filing a protective order along with confidential copy under seal of the Stock Purchase Agreement and Freight Operating Agreement.

Interchange commitments: 49 C.F.R. 1180.4(g)(4)

This transaction will not impose any interchange commitments.

Labor Protective Conditions: 49 C.F.R. 1180.4(g)(1)(I)

Pursuant to 49 U.S.C. 11326(c), no employee protective conditions may be imposed on this transaction. TTR will be, and all existing MBR controlled railroads are, Class III rail carriers.

Environmental and Historic Preservation Materials: 49
C.F.R. 1180.4(g)(3)

Under 49 C.F.R. 1105.6(c)(1)(i), the proposed control transaction does not require environmental documentation. MBR's continuation in control of MB Rail TTI will not result in changes in carrier operations that exceed the thresholds established in 49 C.F.R. 1105.7(e)(4) or (5). Under 49 C.F.R. 1105.8(b)(3), MBR, et al.'s proposed continuation in control of MB Rail TTI is excepted from historic preservation reporting requirements. The continuation in control will not substantially change the level of maintenance of any railroad property.

Respectfully submitted,
s/ Charles H. Montange

Charles H. Montange
Law Offices of Charles H. Montange
426 NW 162d St.
Seattle, WA 98177
(206) 546-1936
Attorney for Midwest & Bluegrass
Rail, LLC, Ivory Beggs, Brian Miller
and Dustin Shaver, and MB Rail TTI,
LLC

Attachments: Exhibit A (maps)
Exhibit B (sale agreement, redacted)
Exhibit C (operating agreement, redacted)

For filing: on or by December 30, 2020

Verification

I, Ivory Beggs, declare under penalty of perjury pursuant to 28 U.S.C. 1746 that I am the manager of Midwest & Bluegrass Rail, LLC ("MBR"), that the foregoing is true and correct to the best of my knowledge, information and belief. In addition, I certify that I am qualified and authorized to make this statement on behalf of MBR, myself, and my colleagues Brian Miller and Dustin Shaver and MB Rail TTI, LLC.

A handwritten signature in cursive script, appearing to read 'Ivory Beggs', written over a horizontal line.

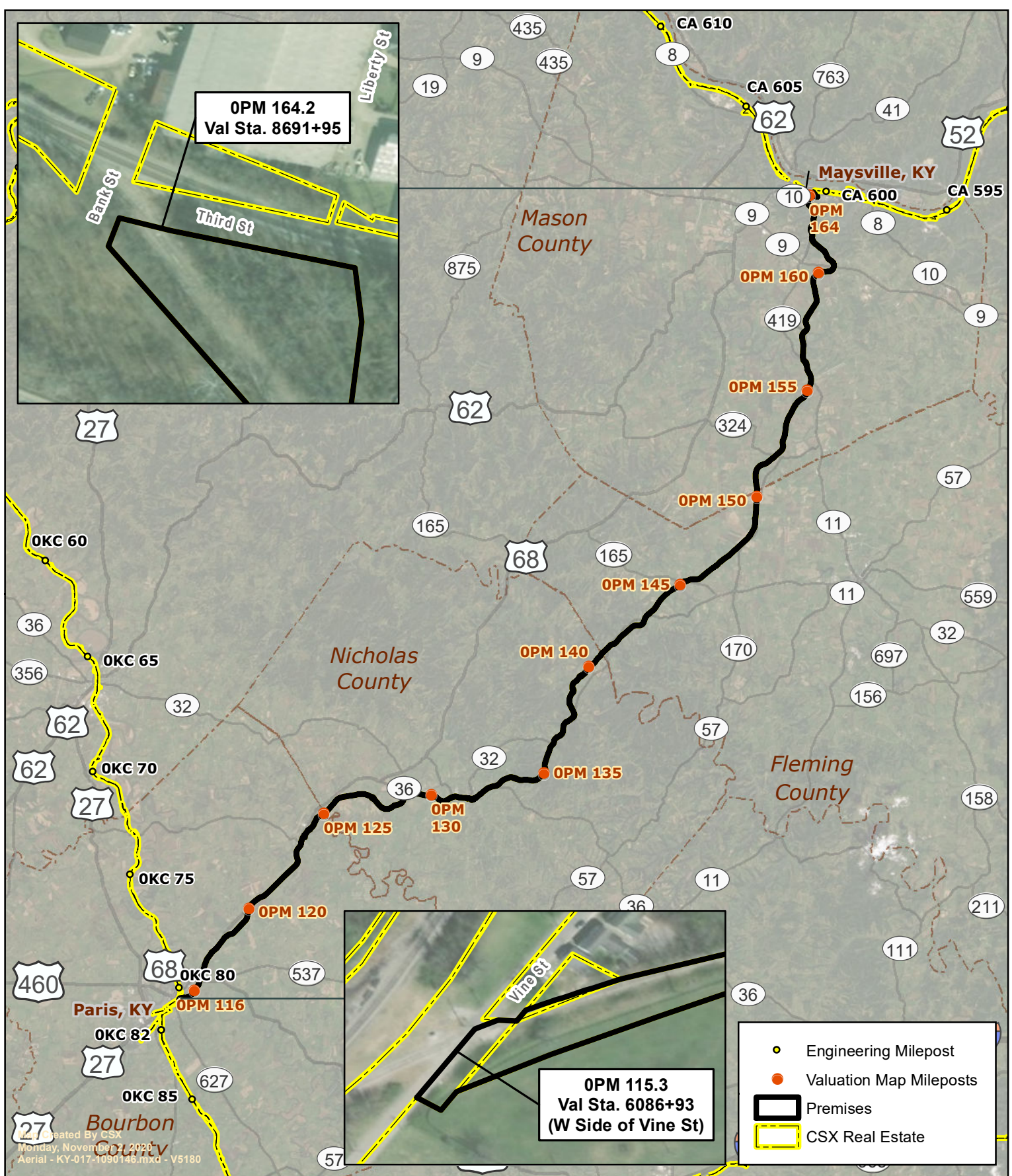
Executed on 12/29/20.

Exhibit A

MAP

TRANSKENTUCKY
(to be acquired by MB Rail TTI)

Also attached, maps for lines controlled by MB Rail IT



TTI LINE - PARIS TO MAYSVILLE, KY
SITE: KY-017-1090146
BOURBON, FLEMING, NICHOLAS, AND MASON COUNTIES, KY
APPALACHIAN - TRANSKENTUCKY
MILEPOST: OPM 115.3 - OPM 164.2

Exhibit A – MAPS

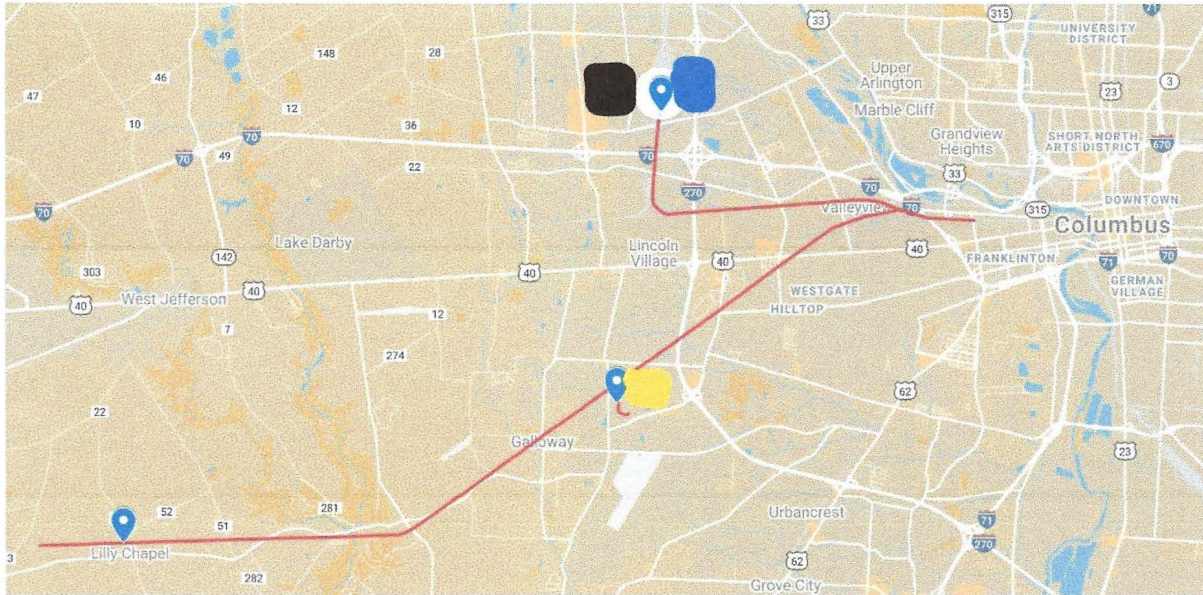
1. Camp Chase, Vermilion Valley, Chesapeake and Indiana, Youngstown & Southeastern (three pages total)
2. All IBC Railroads to be acquired plotted on map of relevant states

Camp Chase Railway

Interchanges: black – Norfolk Southern, Buckeye Yard (COMPC) Milepost 141.4

Blue – CSX Trans., Buckeye Yard via NS intermediate switch (COMPC) Milepost

141.4 Yellow – Rail to Truck Transfer



Vermilion Valley Railroad Company, Inc.

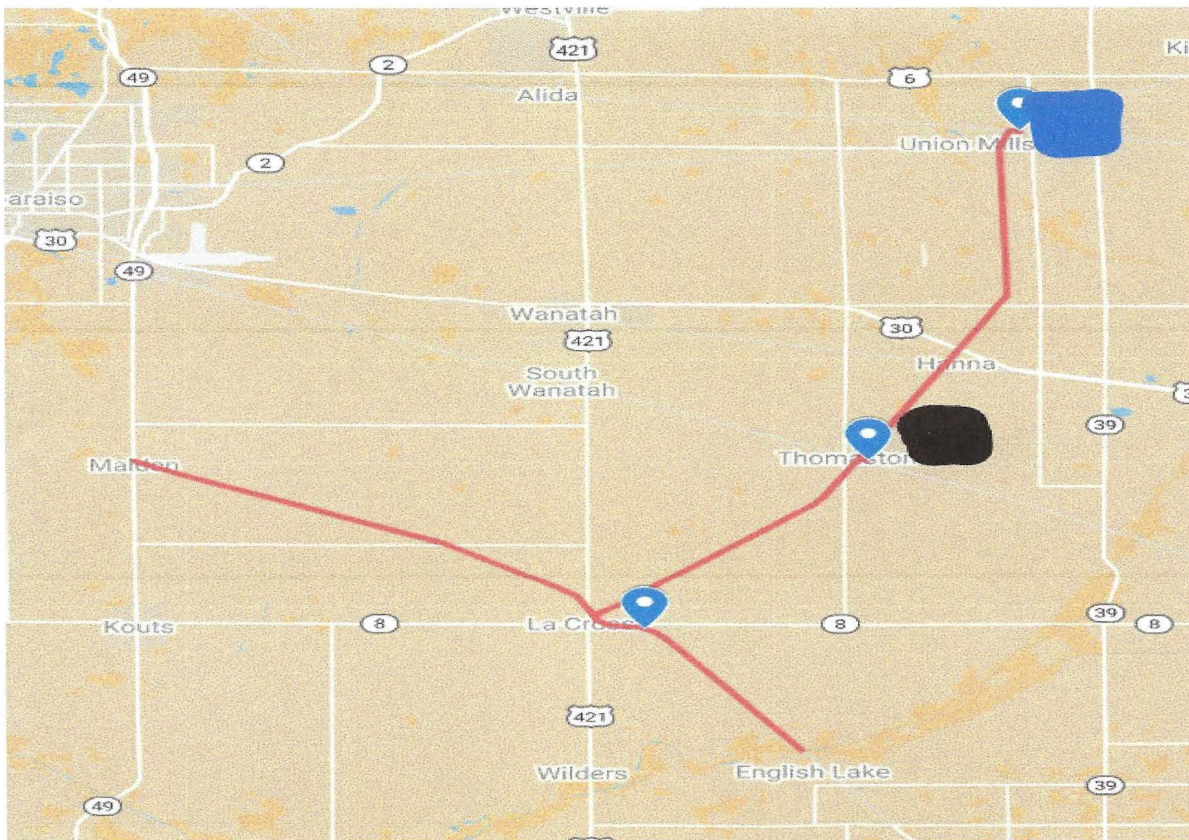
Interchange with CSX Transp. indicated in blue, MP 3.3



Chesapeake & Indiana Railroad Company, Inc.

Interchanges: Black – Norfolk Southern, Thomaston, IN (THOMS) MP 6.4

Blue – CSX Trans., Wellsboro/Union Mills, IN (WLSBO) Milepost 15.3

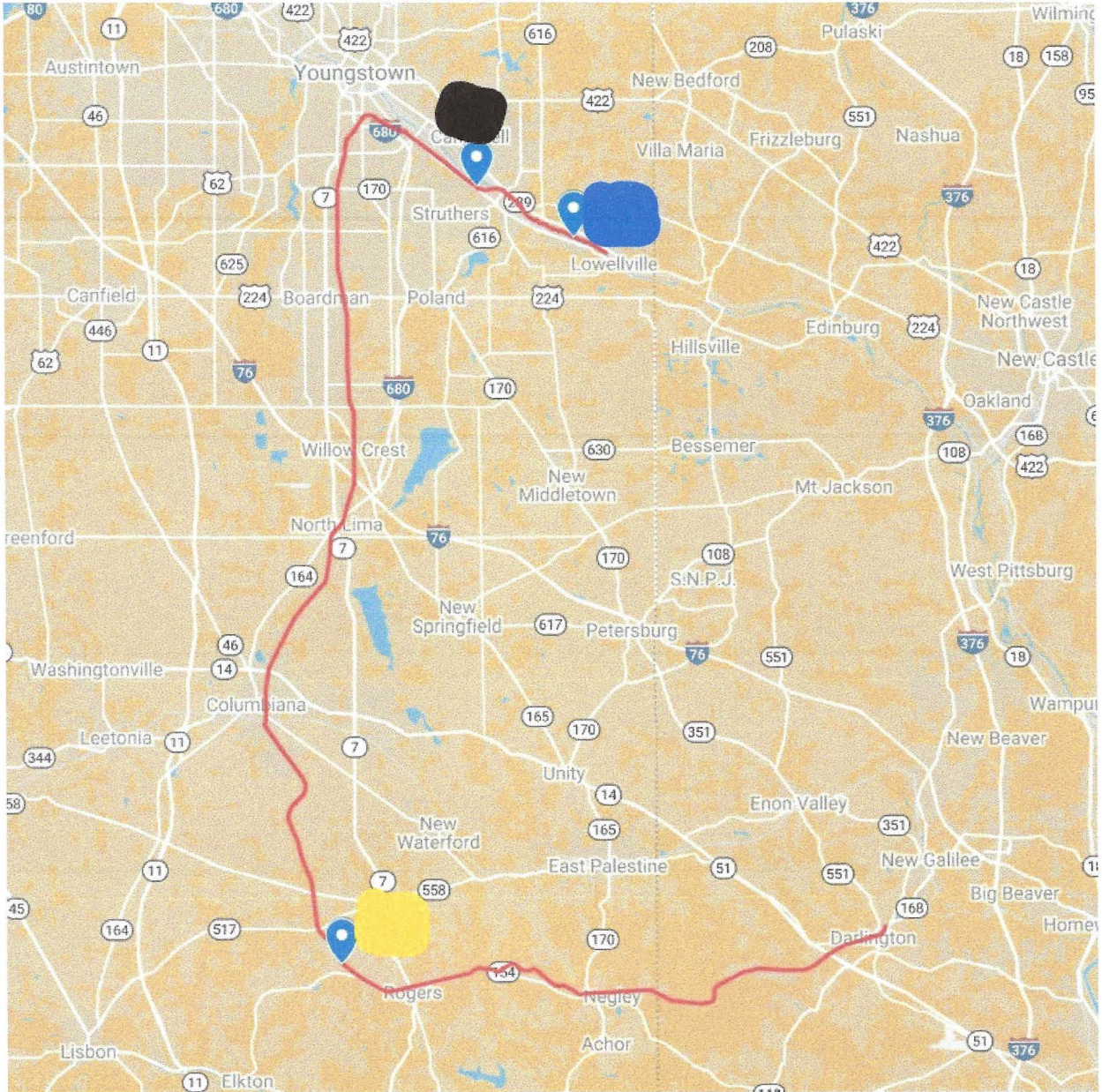


Youngstown & Southeastern Railroad Company

Interchanges: Black – Norfolk Southern, Youngstown, OH Hazelton Yard (YGSTN) MP 0.0

Blue – CSX Trans., Lowellville, OH (LOLVL) Milepost 0.0

Yellow – Rail to Truck Transfer



Indiana Boxcar Railroads

Orange – VVRR

Green – CKIN

Yellow – CAMY

Red – YSRR

Vermilion Valley RR

Chesapeake & Indiana RR

Camp Chase Railway

Youngstown & Southeastern RR Co.

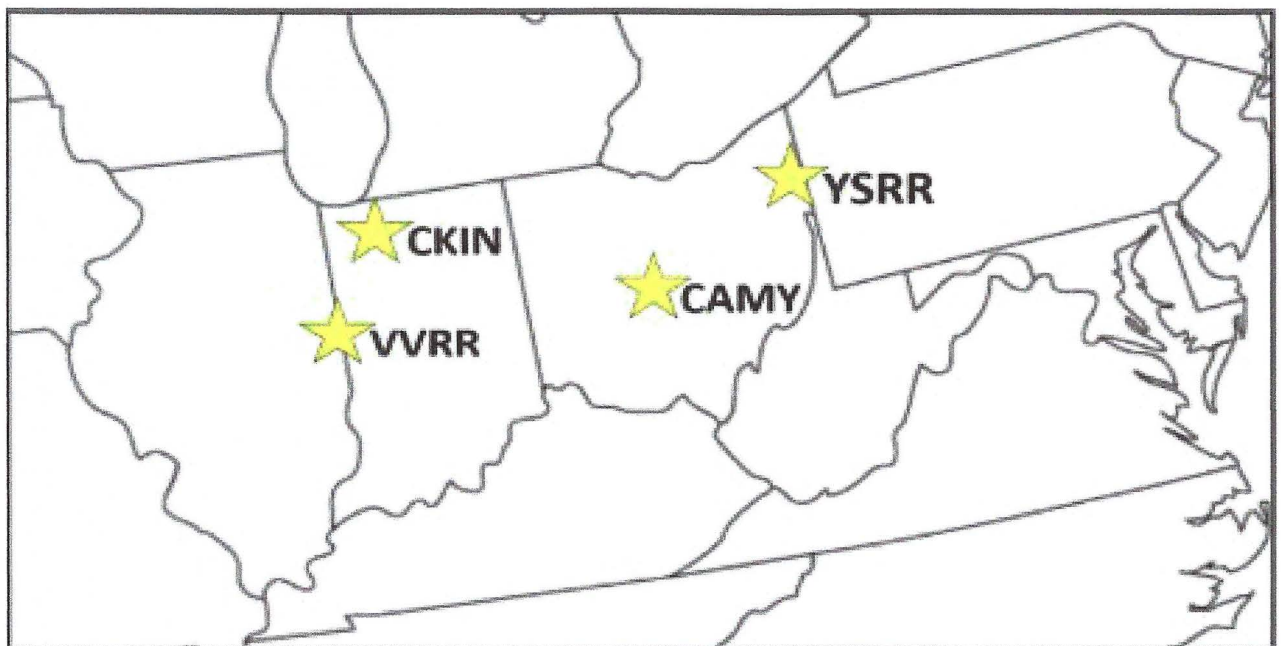
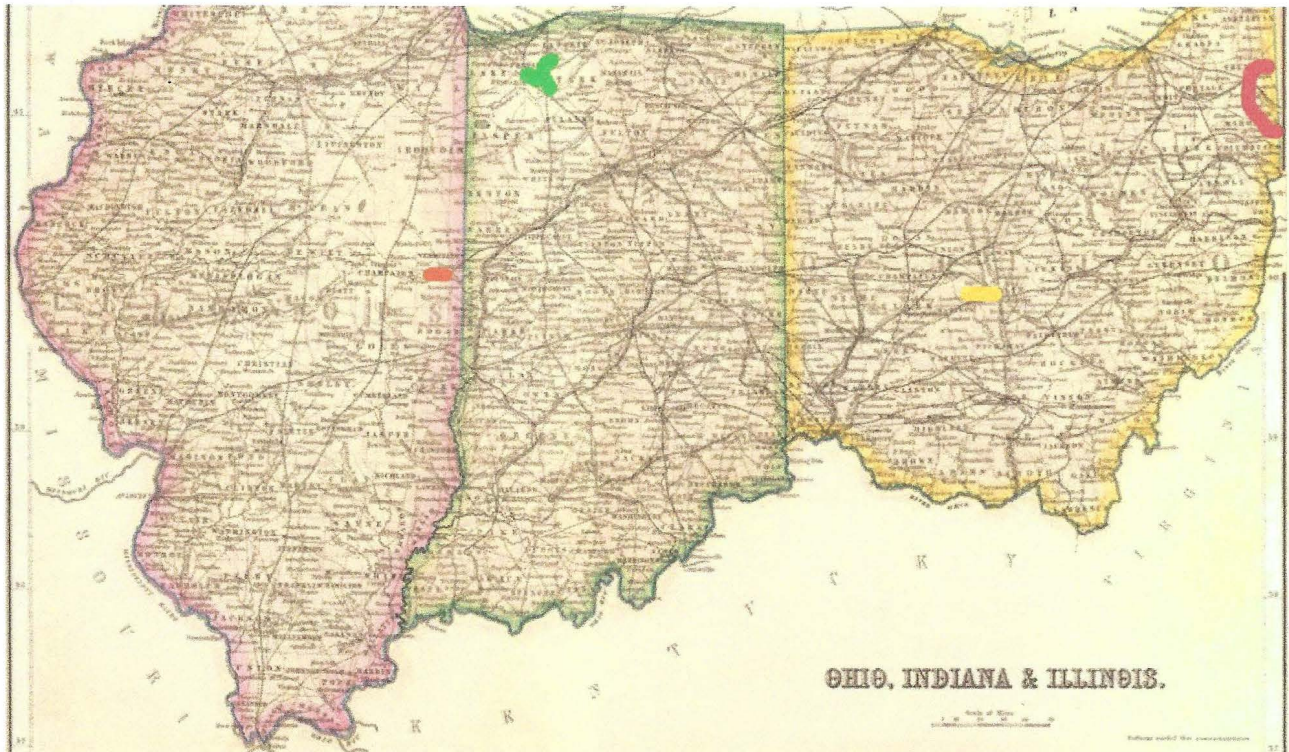


Exhibit B

Draft Sale Agreement

Public Version (Redacted)

STOCK PURCHASE AGREEMENT

Between

MB Rail TTI, LLC

and

The Carrollton Railroad

January __, 2021

STOCK PURCHASE AGREEMENT

This Stock Purchase Agreement (“Agreement”) dated this ____ day of _____, 2021, by and between The Carrollton Railroad, a Kentucky corporation (“Seller”), whose mailing address is 500 Water Street, Jacksonville, FL 32202, and MB Rail TTI, LLC, a ____ [state] limited liability company (“Buyer”), whose mailing address is 10100 N Ambassador Drive, Suite 105, Kansas City, MO 64153. Seller and Buyer are herein referred to collectively as the “Parties” and may be referred to individually as a “Party”.

WHEREAS, Seller owns all of the issued and outstanding shares of common stock, no par value (the “Shares”), of TransKentucky Transportation Railroad, Inc., a Kentucky corporation (the “Company”);

WHEREAS, the Company conducts freight rail operations over real property and right-of-way (“Real Property”), as well as associated property from approximately Valuation Station 6086+60 on the south line of Vine Street in Paris KY and extending to the terminus in Maysville, KY at Valuation Station 8681+00 in Bourbon, Fleming, Mason and Nicholas Counties, Kentucky, all as generally shown on the map in Exhibit A, Map Depicting Line, attached and made a part hereof, and described in Exhibit B, Property Description, attached and made a part hereof, with cut points indicated on the diagram in the inset diagrams in Exhibit A, including but not limited to any and all tracks, rails, ties, ballast, other track materials, switches, crossings, bridges, tunnels, trestles, culverts, earthworks, retaining walls, buildings, signals, crossing protection devices, communication lines, poles and auxiliary tracks, and any and all improvements or fixtures (to the extent of the Company’s ownership interest) that are affixed to the Real Property between the above described points as of the date of this Agreement (“Rail Assets” and collectively with the Real Property, the “Line”).

WHEREAS, Seller desires to sell, and Buyer desires to purchase, the Shares, on the terms set forth in this Agreement (the “Transaction”);

NOW, THEREFORE, Seller and Buyer, intending to be legally bound, hereby agree as follows:

1. **Purchase and Sale** – Subject to the terms and conditions contained in this Agreement, at the Closing, Seller shall sell, transfer and assign to Buyer, and Buyer shall purchase from Seller, the Shares for the consideration specified in Section 2.
2. **Purchase Price and Capital Contribution** –
 - a. Buyer shall pay Seller XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX for the Shares (the “Purchase Price”). Subject to the terms and conditions contained in this Agreement, Buyer shall deliver the aforesaid sum to Seller in immediately available United States funds at Closing.

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- b. At Closing, Buyer shall make a capital contribution to the Company of XXXXX
XX
XXXX, net of the Deposit agreed upon in the Yard Agreement, to provide funds for
the Company to purchase certain yard property and facilities (the “Yard”) pursuant
to that certain Asset Purchase Agreement dated as of _____ 2021 between the
Company and CSX Transportation, Inc., an affiliate of Seller (“CSXT”) (the “Yard
Agreement”). Buyer shall cause the Company to fulfill each and every one of the
Company’s obligations under the Yard Agreement.
- c. If mutually agreed between the Parties at least five (5) business days before
Closing, Buyer may make a single wire transfer of an amount equal to the Purchase
Price (net of deposits) and the price to be paid by the Company pursuant to the Yard
Agreement.
- d. Buyer may, at its discretion, make an Internal Revenue Code Section 338(g) election
with respect to the Transaction (the “Section 338 Election”); provided that, consistent
with Section 9, Buyer is responsible for, and agrees to assume and indemnify Seller
for, any resulting income or other tax liabilities.

3. **Deposit** - A non-interest bearing seller-held deposit in an amount equal to XXXXXXXXXXXX
XX payable to the
order of Seller (hereinafter the “Deposit”), accompanies Buyer’s execution of this Agreement.
The balance of the Purchase Price shall be paid at settlement or closing of the Transaction
(hereinafter the “Closing”), in immediately available United States funds, by bank wire
transfer or other means acceptable to Seller. The process for the wire transfer shall be
coordinated with Seller within five (5) business days of the execution of this Agreement. The
Deposit shall be applied to the Purchase Price at Closing. If Closing fails to occur, for any
reason other than Buyer default, prior to the Closing Deadline as defined below, XXXXXXXX
XX of the Deposit shall be
forfeited to and retained by Seller. In the event of Buyer default, the entire Deposit shall be
forfeited to and retained by Seller. The Closing shall occur on a date to be mutually agreed
upon by Seller and Buyer (the “Closing Date”), but no later than
XXXXXXXXXXXXXXXXXXXX (the “Closing Deadline”).

4. **Closing Deliverables -**

- a. At Closing and as a condition to Closing, the Parties shall deliver or enter into, as
applicable, the following transaction documents executed by the applicable contract
parties (the “Transaction Documents”).
 - i. Stock Certificates evidencing the Shares, duly endorsed in blank or
accompanied by stock powers duly executed in blank
 - ii. Declaration of Restrictive Covenants (Exhibit C)

- iii. Freight Operating Agreement between CSXT and the Company in a form reasonably acceptable to Seller and to which Buyer has no reasonable objection.
 - iv. A certificate executed by an officer of the Company certifying on behalf of the Company an itemized list of all unpaid principal amount of, and accrued interest on, all indebtedness for borrowed monies of the Company as of the open of business on the Closing Date (the “Company Indebtedness”) and the person or entity to whom such outstanding Indebtedness is owed and an aggregate of such outstanding Company Indebtedness (the “Certificate of Indebtedness”). The Certificate of Indebtedness shall be in substantially the form of Exhibit D.
 - v. Assignment and Assumption Agreement (Exhibit E)
 - vi. Individual Release and Right of Entry Agreement (Exhibit F)
 - vii. Interchange Agreement between CSXT and the Company in form standard within the rail industry, in a form reasonably acceptable to Seller and to which Buyer has no reasonable objection.
 - viii. Transition of Rail Service Operations Agreement between Seller and the Company in a form reasonably acceptable to Seller and to which Buyer has no reasonable objection.
 - ix. The Yard Agreement in a form reasonably acceptable to Seller and to which Buyer has no reasonable objection , and
 - x. Such other agreements as may be required to consummate the transactions contemplated by this Agreement.
- b. Prior to the Closing, Seller shall pay on behalf of the Company all of the Company Indebtedness and obtain the release of all liens and security interests against the Rail Assets securing the Company Indebtedness.
 - c. Seller shall ensure that at Closing, the Company will have cash on hand of not less than __ THOUSAND DOLLARS (\$__, 000.00).

5. **Freight Operating Agreement** - The Freight Operating Agreement is of the essence of this Agreement. Any default under the Freight Operating Agreement shall be deemed a default under all Transaction Documents. While all or portions of the Freight Operating Agreement may not be placed of public record, any party acquiring all or any portion of the Real Property shall take title to such Real Property or a portion of the Real Property in all respects subject to all terms and conditions of the Freight Operating Agreement.

6. **Regulatory Approval** -

- a. The Parties agree to work collectively to expedite any and all regulatory approvals, exemptions, or other filings concerning the establishment or transfer of rights and obligations described in this Agreement. Seller and Buyer also agree that the Yard is excepted track as defined in 49 USC 10906, and that such status of the Yard will not change prior to Closing. Buyer shall indemnify Seller, the Company and CSXT for any costs, penalties, or fines incurred resulting from Buyer's failure to comply with this Section.
 - b. The Parties intend to file with the STB any necessary definitive agreements (executed or in draft form), as required by the STB, reflective of the Parties' intent and sufficient to allow the STB to understand, and as appropriate approve or exempt, the transaction as a means to expeditiously progress the transaction contemplated in this Agreement, which transaction shall be subject to the satisfaction of any applicable STB regulatory requirements and potentially other conditions precedent. The Parties will provide one another with an opportunity to review and comment upon one another's proposed filings. All filings shall be subject to the approval of all Parties.
 - c. Each Party shall be responsible for filing and prosecuting its own applications, petitions for exemption, and/or notices of exemption and paying any applicable filing fees or attorneys' fees as may be necessary to establish, modify or terminate rights and obligations pursuant to this Agreement.
 - d. Each Party agrees to cooperate with the other Parties in the preparation and filing of applications, petitions for exemption, and/or notices of exemption as provided for in this Agreement, and to support the regulatory authorizations proposed in those filings.
 - e. Each Party shall be solely responsible for any protective conditions or benefits imposed by any judicial, regulatory or governmental body, for the benefit of its own employees or the employees of any of its subsidiaries or affiliates, or who are otherwise required to be paid under its collective bargaining or other agreements, howsoever arising, including as a consequence of the approval or exemption of the Transaction.
 - f. Buyer and Seller further agree that Buyer shall be responsible for complying with the requirements of 49 C.F.R. §213.5(c) and §237.3, if applicable, and shall indemnify Seller and the Company as against any penalties issued for failure to comply with those provisions.
 - g. Without prejudice to the survival of any other provision, the obligations with respect to the payment of labor costs and indemnity shall survive closing.
7. **Capitalization** – The authorized capital stock of the Company consists of XXXXXX shares of common stock, no par value. There are XXXXX shares issued and outstanding which constitute the Shares. There are authorized, but not outstanding, XXXXX preferred shares of par value \$XXX. All of the Shares have been duly authorized, are validly issued, fully paid

and non-assessable, and are owned of record and beneficially by Seller, free and clear of all liens and security interests. There are no outstanding or authorized options, warrants, convertible securities or other rights, agreements, arrangements or commitments of any character relating to the capital stock of the Company or obligating Seller or the Company to issue or sell any shares of capital stock of, or any other interest in, the Company. The Company does not have outstanding or authorized any stock appreciation, phantom stock, profit participation or similar rights. There are no voting trusts, stockholder agreements, proxies or other agreements or understandings in effect with respect to the voting or transfer of any of the Shares.

8. Restrictive Covenants and Easements –

- a. At or before the Closing, Seller and the Company shall enter into a Declaration of Restrictive Covenants and Easements substantially in the form of Exhibit C (“Declaration of Restrictive Covenants”), containing one or more restrictive covenants, reading substantially as follows, to run with title to the Real Property, and to be binding upon the Company, the Company's heirs, legal representatives and assigns, or corporate successors and assigns, or anyone claiming title to or holding the Real Property through the Company:

“The Company acknowledges that the Real Property has been historically used for railroad industrial operations and is for use only as industrial or commercial property. The Company hereby covenants that it, its successors, heirs, legal representatives or assigns shall not use the Real Property for any purpose other than industrial or commercial purposes and that the Real Property will not be used for (a) any residential purpose of any kind or nature (residential use shall be defined broadly to include, without limitation, any use of the Real Property by individuals or families for purposes of personal living, dwelling, or overnight accommodations, whether such uses are in single family residences, apartments, duplexes, or other multiple residential dwellings, trailers, trailer parks, camping sites, motels, hotels, or any other dwelling use of any kind), (b) any public or private school, day care, or any organized long-term or short-term child care of any kind, (c) any recreational purpose (recreational use shall be defined broadly to include, without limitation, use as a public park, hiking or biking trail, athletic fields or courts, or public gathering place), (d) any agricultural purpose that results in, or could potentially result in, the human consumption of crops or livestock raised on the property (agricultural purpose shall be defined broadly to include, without limitation, activities such as food crop production, dairy farming, livestock breeding and keeping, and cultivation of grazing land that would ultimately produce, or lead to the production of, a product that could be consumed by a human), (e) the establishment of a mitigation bank and/or the sale, lease, license, conveyance or in any way distribution of mitigation credits, (f) passenger and/or commuter rail operations, (g) any longitudinal transportation purpose other than freight rail operations, and (h) any hospital, nursing home, elder care facility, assisted living facility, or other facility offering medical care. The Company further covenants that it, its successors, heirs, legal

representatives or assigns shall not use the groundwater underneath the Real Property for human consumption, irrigation, or other purposes.

The Company further covenants that it, its successors, heirs, legal representatives and assigns shall abide by and be governed by this Agreement, including its Exhibits.

Seller and the Company agree and acknowledge that the covenants and easements contained in this Declaration of Restrictive Covenants shall be covenants "in gross" and easements "in gross" which shall remain binding on the Company, its successors, heirs, legal representatives and assigns regardless of whether Seller continues to indirectly own the Real Property. The Company acknowledges Seller will continue to have a substantial interest in enforcement of the said covenants and easements whether or not Seller retains indirect ownership to the Real Property.

CSXT and the Company have entered into a Freight Operating Agreement dated as of the date hereof, governing numerous relationships pertaining to railroad freight operations on the Real Property. The Freight Operating Agreement is integral to the transactions giving rise to this Declaration of Restrictive Covenants and the operation of the Line. The Freight Operating Agreement shall bind and be imposed upon and shall run with title to the Real Property, both against the Company and the Company's successors and assigns. While all or portions of the Freight Operating Agreement may not be placed of public record, any party acquiring all or any portion of the Real Property shall take title to such Real Property or a portion of the Real Property in all respects subject to all terms and conditions of the Freight Operating Agreement."

- b. Buyer acknowledges that, prior to Closing, Company will have granted to Seller its successors and assigns, the following easements, rights and interests; and Buyer further acknowledges that it is purchasing the Shares recognizing that the Real Property is subject to the following easements, rights and interests:

All rights, if any, to the airspace above the Real Property, which airspace lies above a horizontal plane, the elevation of which is twenty-three feet (23') above the top of existing tracks or in the absence of tracks, the surface elevation of the land.

All mineral rights, if any, including but not limited to oil, gas and coal, and the constituents of each, underlying the Real Property; and the right for Seller, its successors and assigns, to remove the same; HOWEVER, Seller will not drill or permit drilling on the surface of the Real Property without the prior written consent of the Company, which consent shall not be unreasonably withheld.

A perpetual EXCLUSIVE easement, hereinafter the "Existing Utility Easement", in, over, under and along those portions of the Real Property encumbered by existing longitudinal occupancies of every type and nature, whether recorded or not, together with the right to maintain, operate, use, replace, relocate, renew and remove such occupancies, TOGETHER WITH the further right to assign the Existing Utility Easement, and/or the rights reserved pursuant thereto, in whole or in part, and to lease, license or permit third parties to use the Existing Utility Easement and/or the rights reserved pursuant thereto. TOGETHER WITH unrestricted access over the Real Property to reach the Existing Utility Easement and with the further right to assign the Existing Utility Easement, in whole or in part, and to lease, license or to permit third parties to use the Existing Utility Easement and/or the rights reserved pursuant thereto provided that the exercise of such rights does not unreasonably interfere with the safe and efficient use of the Real Property for the operation of a freight railroad. The right to use the Real Property for longitudinal utilities shall be exclusive unto the Seller. For the purposes of this section, the term "longitudinal" shall refer to any utility occupancy that runs parallel to the tracks for a distance that exceeds one thousand feet (1,000').

An indefinite number of EXCLUSIVE perpetual longitudinal utility easements, hereinafter the "Future Utility Easements", for the entire width and length of the Real Property for future construction, maintenance, operation, use, replacement, relocation, renewal and removal of utilities, which shall include but not be limited to water lines, sewer lines, natural gas lines, electric, telephone, fiber optic and other communications and data systems; and petroleum products pipelines consisting of cables, lines, pipes or facilities in, over and under the Real Property and all ancillary equipment or facilities (both underground and surface), and the right to attach same to existing bridges and other structures on the Real Property, and such surface rights as may be necessary to accomplish the same; TOGETHER WITH unrestricted access over the Real Property to reach the Future Utility Easements and with the further right to assign the Future Utility Easements, in whole or in part, and to lease, license or to permit third parties to use the Future Utility Easements provided that the exercise of such rights does not unreasonably interfere with the safe and efficient use of the Real Property for the operation of a freight railroad. The right to use the Real Property for longitudinal utilities shall be exclusive unto Seller. For the purposes of this section, the term "longitudinal" shall refer to any utility occupancy that runs parallel to the tracks for a distance that exceeds one thousand feet (1,000').

An indefinite number of EXCLUSIVE perpetual signboard easements, hereinafter the "Existing Signboard Easement" for existing signboards whether recorded or not, together with the right to maintain, operate, use, replace, upgrade, relocate, renew and remove such occupancies,

TOGETHER WITH unrestricted access over the Real Property to reach the Existing Signboard Easement and the right to control view zones necessary to control the Existing Signboard Easement and with the further right to assign the Existing Signboard Easement, and/or the rights granted pursuant thereto, in whole or in part, and to lease, license or permit third parties to use the Existing Signboard Easement and/or the rights granted pursuant thereto provided that the exercise of such rights does not unreasonably interfere with the safe and efficient use of the Real Property for the operation of a freight railroad. The right to use the Real Property for signboards shall be exclusive unto Seller.

An indefinite number of EXCLUSIVE perpetual signboard easements, hereinafter the “Future Signboard Easements” for future signboards together with the right to maintain, operate, use, replace, upgrade, relocate, renew and remove such occupancies, TOGETHER WITH unrestricted access over the Real Property to reach the Future Signboard Easements and the right to control view zones necessary to control the Future Signboard Easements and with the further right to assign the Future Signboard Easements, and/or the rights granted pursuant thereto, in whole or in part, and to lease, license or permit third parties to use the Future Signboard Easements and/or the rights granted pursuant thereto provided that the exercise of such rights does not unreasonably interfere with the safe and efficient use of the Real Property for the operation of a freight railroad. The right to use the Real Property for signboards shall be exclusive unto Seller.

An indefinite number of EXCLUSIVE perpetual easements for towers and antennae of whatever height for data, communications and power transmission including without limitation cellular communication systems, hereinafter the “Existing Cell Tower Easement” for existing towers and antennae whether recorded or not, together with the right to maintain, operate, use, replace, upgrade, relocate, renew and remove such occupancies, TOGETHER WITH unrestricted access over the Real Property to reach the Existing Cell Tower Easement and to provide it with power and with the further right to assign the Existing Cell Tower Easement, and/or the rights granted pursuant thereto, in whole or in part, and to lease, license or permit third parties to use the Existing Cell Tower Easement and/or the rights granted pursuant thereto provided that the exercise of such rights does not unreasonably interfere with the safe and efficient use of the Real Property for the operation of a freight railroad. The right to use the Real Property for cell towers shall be exclusive unto Seller.

An indefinite number of EXCLUSIVE perpetual easements for towers and antennae of whatever height for data, communications and power transmission including without limitation cellular communication systems, hereinafter the “Future Cell Tower Easements” for future towers and antennae together with the right to maintain, operate, use, replace, upgrade,

- e. Buyer understands and agrees that, when Seller, or CSXT as its assignee, grants any new occupancies and / or sells or undertakes to manage any new easements ("New Property Management Sources") such New Property Management Sources will be administered by both parties collectively, including the right to enter TTI to install, access, maintain, use, assign or sell to others new fiber and longitudinal occupancies, oil, natural gas, and mineral rights, select leases, licenses, utility crossings, signboards, towers, and easements and encroachment pursuant to a shared revenue agreement in which all new revenue from such New Property Management Sources shall be divided XXXX to CSX and XXXX to TTI subject to mutual audit between the parties; *provided, however*, that the reservation and exercise of New Property Management Sources by CSXT will not unreasonably interfere with freight operations; provided further, that the reservation and exercise of New Property Management Sources by CSXT will not unreasonably interfere with Buyer's ability to

utilize air rights above 23 feet (as described above) that are not then occupied by CSXT and are necessary for Buyer to provide common carrier rail freight service to rail freight customers served by Buyer upon notice and consent by CSXT as to such use, which consent will not be unreasonably withheld, conditioned or delayed.

9. Expenses and Taxes -

- a. Recording and filing fees, transactional taxes, transfer taxes, and sales and related taxes or fees in respect to the Transaction ("Transactional Taxes and Fees") shall be the responsibility of Buyer. Buyer shall defend, hold harmless and indemnify Seller and its affiliates for all Transactional Taxes and Fees. Buyer shall pay all transfer taxes, however styled or designated, all documentary stamps, recording and filing costs or fees or any similar expense in connection with this Agreement, the change of ownership of the Company or necessary to record the Declaration of Restrictive Covenants and any of the documents in connection with the Agreement. Buyer shall record or cause to be recorded all documents that are to be recorded, but if Buyer fails to do so, Seller may record any or all such documents.
- b. All customs, duties or other taxes, fees, assessments or charges of any kind whatsoever ("Taxes") that were or are an obligation of the Company and that relate to a taxable period that begins before and ends after the Closing Date (a "Straddle Period") shall be allocated between (i) any taxable period ending before the Closing Date (and, with respect to any Straddle Period, the portion of such Straddle Period ending prior to the Closing Date) (the "Pre-Closing Tax Period") and (ii) any taxable period beginning on or after the Closing Date (and, with respect to any Straddle Period, the portion of such Straddle Period beginning on and including the Closing Date) (the "Post-Closing Tax Period") as follows:

The amount of any Taxes for the Pre-Closing Tax Period that are (i) based on or measured by income or receipts, (ii) imposed in connection with the sale, transfer or assignment of property, or (iii) required to be withheld, shall be determined based on an interim closing of the books as of the close of business on the day prior to the Closing Date; and

The amount of all other Taxes that relate to the Pre-Closing Tax Period shall be deemed equal to the amount of such Taxes for (i) the entire period ending prior to the Closing Date, plus (ii) the amount of such Taxes for the Straddle Period multiplied by a fraction, the numerator of which is the number of days in the portion of the Straddle Period ending on the day prior to the Closing Date and the denominator of which is the number of days in the entire Straddle Period.

The remainder of the Taxes for the Straddle Period shall be allocated to the Post-Closing Tax Period.

- c. Without the prior written consent of Seller, following the Closing, Buyer, the Company and their affiliates shall not, make, change or rescind any Tax election, amend any Tax return or take any position on any Tax return, take any action, omit to take any action or enter into any other transaction outside the ordinary course of

business that would have the effect of increasing the Tax liability or reducing any Tax asset of Seller and its affiliates or the Company in respect of any Pre-Closing Tax Period. . Notwithstanding the foregoing sentence, and for the avoidance of doubt, Buyer may make a Section 338(g) Election, provided that consistent with subsections (b) and (d) of this section 9, Buyer is responsible for, and agrees to assume, and indemnify Seller (on an after tax basis) for any resulting income or other tax liabilities resulting from the Section 338(g) Election.

- d. Buyer shall prepare and timely file, or cause to be prepared and timely filed, all Tax returns of the Company for any Straddle Period. All such Tax returns shall be prepared in a manner consistent with past practice (unless otherwise required by law) and without a change of any election (other than the Section 338 Election, which is Buyer's option) or any accounting method. Buyer shall provide copies of any such Tax return (together with schedules, statements and, to the extent requested by Seller, supporting documentation) to Seller at least thirty (30) days prior to the due date (including extensions) for review and approval (which approval shall not be unreasonably withheld, conditioned or delayed). Buyer shall timely pay or cause to be paid all Taxes due in respect of such Tax returns. Seller shall pay to Buyer an amount equal to the portion of the Taxes with respect to any such Tax returns that relates to the Pre-Closing Tax Period, at the later of five (5) Business Days prior to the due date (including extensions) of such Tax returns or upon written demand therefor.
- e. Buyer, the Company and Seller shall provide each other with such cooperation and information as any such party reasonably may request of the other in filing any Tax return pursuant to this Agreement or in connection with any audit or proceeding in respect of Taxes of the Company. Such cooperation and information shall include providing copies of relevant Tax returns or portions thereof, together with accompanying schedules, related work papers and documents relating to rulings or other determinations by tax authorities. Seller and Buyer shall retain all Tax returns, schedules and work papers, records and other documents in their possession relating to Tax matters of the Company for any taxable period beginning before the Closing Date until the expiration of the statute of limitations of the taxable periods to which such Tax returns and other documents relate, without regard to extensions except to the extent notified by the other party in writing of such extensions for the respective Tax periods.

10. Agreements Pertaining to the Line –

- a. No later than two (2) weeks before the Closing Date, Seller shall make available for review the contracts, agreements, licenses and leases pertaining to the Line which will remain with the Company after Closing (the “Retained Agreements”) and the agreements that will be assigned by the Company to Seller at Closing (the “Assigned Agreements”). It is the intent of the Parties that all longitudinal contracts, agreements, leases, licenses or easements (as described in Section 8, including without limitation those pertaining to pipelines and communications services) are to be assigned to Seller. Except as noted below, at Closing, the Company shall assign to Seller all of

the Company's rights and interests in the Assigned Agreements and Seller shall assume and be bound by all of Seller's obligations and liabilities thereunder. Such assignment shall be substantially in the form of Exhibit E. Provided however, that certain Assigned Agreements may be assigned and assumed only in part as their context requires. In the event that assignment of any Assigned Agreement requires the consent of the counterparty or any other third party, at the request of Seller it shall be the responsibility of the Buyer to secure such consent. The Assignment and Assumption Agreement shall provide for the Company's indemnification of Seller for obligations and liabilities occurring under the Assigned Agreements prior to the Closing Date and for Seller's indemnification of the Company for obligations and liabilities occurring under the Assigned Agreements on or after the Closing Date. Any and all prepaid fees, charges, rent or income under any of the Assigned Agreements due or payable after the Closing Date and received by the Company shall be paid to Seller by the Company. Notwithstanding the foregoing, any Assigned Agreements for which billing occurs in arrears shall be prorated at Closing. Seller, at its sole option, may elect to have the Assigned Agreements assigned directly from the Company to CSXT.

- b. All interests in those contracts, agreements, licenses and easements pertaining in whole or in part to the Line which are set forth and described in the Retained Agreements shall retained be the Company.
- c. It is understood by the Parties hereto that the Assigned Agreements, *inter alia*, may grant or confer to others, not party to this Agreement, rights, interests and privileges in or pertaining to the Line, and that, from and after the Closing Date Buyer shall not (and shall cause the Company not to) cause or suffer any interference with the enjoyment and use of the rights, interests and privileges granted or conferred in the Assigned Agreements and Buyer shall not (and shall cause the Company not to) cause or suffer any breach of any of the Assigned Agreements.
- d. The Assigned Agreements that will be fully assigned are listed in Exhibit E-1, the Assigned Agreements that will be assigned only in part are listed in Exhibit E-2, and the Retained Agreements are listed in Exhibit E-3. As of the date of execution of this Agreement, no contracts, agreements, leases, licenses or easements that are to be fully assigned have been identified. One agreement will be partially assigned. In the event that subsequent to the Closing Date Seller locates any contracts, agreements, leases, licenses or easements which should have been included in Exhibit E-1, Exhibit E-2 or Exhibit E-3 that pertain to the Line but were inadvertently omitted from the correct Exhibit, the Parties hereto shall amend those Exhibits to incorporate any such documents and with respect to those that are Assigned Agreements, Buyer shall cause assignment thereof by the Company in the manner designated for Assigned Agreements in clause (a) of this Section 10, with the Parties being placed in the same place as if transfer had taken place as of Closing.

11. Buyer's Right of Entry, Environmental and Other Inspections -

- a. During the term of this Agreement, and prior to the Closing Date, Buyer and/or its agents shall be permitted to have access to the Line, subject to the rights of any tenant, licensee, utility or other third party occupying any portion of the Line, in order to make surveys, make measurements, conduct geotechnical or engineering tests (including drilling and coring for preconstruction soil stability/permeability analysis), and to inspect the Line, including the performance of a Phase I Environmental Site Assessment, but NOT including any sampling and/or analysis of air, soil, surface water or groundwater at, in or under the Line (the "Environmental Assessment"); PROVIDED, however, that Buyer and/or its agents hereby assumes all risks of such entry and agrees to defend, indemnify and save Seller and its affiliates harmless from and against any claim, cost or expense resulting from any damage to or destruction of any property (including the Line or any improvements thereon) and any injury to or death of any person(s), arising from the acts or omissions of Buyer or its agents in the exercise of this right-of-entry. Buyer's and its agents' employees, shall each execute the Individual Release and Right of Entry Agreement in the form of Exhibit F prior to entry onto the Line. Buyer agrees to perform no action, which would encumber title to the Line in exercising this right-of-entry. Any drilling and coring holes shall be filled upon completion of testing. All waste, including without limitation drilling waste, ground water and cuttings, shall be promptly handled, characterized and disposed of properly and in accordance with all local, State and Federal requirements, all at Buyer's sole cost. Buyer shall cover the reasonable out of pocket cost and expense of Seller or CSXT to flag, pilot, or otherwise employ CSXT's or Company's resources to facilitate the inspections. On written request, Seller shall disclose to Buyer, to the actual knowledge of Coley Campbell, Manager, Environmental Services, for CSX Real Property, reasonably available internal records that pertain to the environmental condition of the Line.
- b. Seller reserves the right to monitor and approve all procedures in the conduct of any Environmental Assessment, tests, studies, measurements or analyses performed by or for Buyer in, on, to or with respect to the Line. Buyer shall provide in any contract or bids for Environmental Assessment a "confidentiality clause," limiting disclosure of the results and any report only to Buyer (or to Seller and its affiliates, but only upon written request), and an "insurance clause," requiring the entity selected by the Buyer to perform the work to produce a certificate of insurance naming Seller (including any affiliates of Seller designated by Seller) and Buyer as additional insureds with the following coverage and limits:
 - i. Commercial General Liability (CGL) insurance with coverage of not less than XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX Combined Single Limit per occurrence for bodily injury and property damage.
 - ii. In addition to the above-described CGL insurance, if Buyer will undertake, or cause to be undertaken, any construction or demolition

activity within fifty (50) feet of any Company track or any Company bridge, trestle or tunnel, then Buyer shall also purchase, or cause to be purchased, a policy of Railroad Protective Liability (RPL) insurance, naming Seller and the Company (including any affiliate of Seller designated by Seller) as the insureds, with coverage of not less than XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX Combined Single Limit per occurrence, with an aggregate of XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX. Such policy must be written on ISO/RIMA form of Railroad Protective Insurance – Insurance Services Offices Form No. CG 00 35, including Pollution Exclusion Amendment CG 28 31. At Seller's option, in lieu of purchasing RPL insurance (but not CGL insurance), Buyer may pay Seller a Construction Risk Fee, currently XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX, and thereby be relieved of any obligation to purchase said RPL insurance.

- iii. Worker's Compensation Insurance as required by the state in which the Environmental Assessment is to be performed. This policy shall include Employers' Liability Insurance with a limit of not less than XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX per occurrence. Unless prohibited by law, such insurance shall waive subrogation against Seller and its affiliates.
 - iv. Automobile Liability Insurance in an amount not less than XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX covering all owned, non-owned and hired vehicles.
 - v. Professional Errors and Omissions (E&O) insurance with coverage of not less than XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX Combined Single Limit per occurrence for professional errors and omissions.
- c. Buyer shall also: notify Seller in writing no less than ten (10) days prior to initiating any such Environmental Assessment and provide Seller with a schedule and scope of work to be performed. Buyer shall keep Seller fully apprised of the progress of, and procedures followed with respect to, all such environmental work; and fully cooperate with all reasonable requests of Seller in undertaking and carrying out such work. Buyer shall deliver to Seller (but only upon Seller's written request) at no cost to Seller, within five (5) days after receipt, copies of all results, assessments, reports and studies, whether of an environmental nature or otherwise, resulting from any tests or inspections conducted by Buyer pursuant to this Section 11.
- d. If Buyer is unwilling to accept the environmental condition of the Line after Environmental Assessment, Buyer's sole and exclusive remedy shall be to terminate this Agreement. Buyer must exercise such right to terminate this Agreement within forty five (45) days of execution to receive any refund of the

Deposit. Under no circumstances shall Seller or the Company be required to correct, remedy or cure any condition or environmental contamination of the Line as a condition to Closing or other performance hereunder.

- e. If Buyer does not elect to terminate this Agreement, Buyer shall take the Line “as is” at Closing, and hereby assumes all risks associated with the environmental condition of the Line, regardless of the cause or date of origin of such condition, and also hereby unconditionally releases all rights or claims against Seller and its affiliates relating to such condition or for any costs of remediation or cure of any environmental condition.
- f. On and after Closing, Buyer specifically assumes full and complete responsibility, including but not limited to all costs, for all remedial activities required to address any and all environmental conditions and/or impacts associated with the Line. Buyer shall diligently pursue all remedial activities as may be required by the cognizant environmental agency and/or agencies until such time as the Buyer receives a “No Further Action” letter or the equivalent from the cognizant environmental authorities.
- g. Buyer acknowledges that all buildings, other structures (which shall include but not be limited to storage tanks and transformers), and all other property and materials found on the Line (hereinafter collectively “Buildings”) are to be in their “AS IS, WHERE IS” condition, with no representation of any kind, express or implied, that the Buildings are suitable for habitation or any other purpose. Buyer also acknowledges the possible presence of asbestos, lead-based paint, and/or other hazardous substances, in various portions of the Buildings and hereby accepts any and all responsibility for any abatement or repair desired or required to be performed on the Buildings at its sole cost and expense. Buyer agrees to hold harmless Seller and its affiliates, their successors and assigns, from and against any and all claims, demands, suits, or expenses, including attorneys’ fees, as a result of injury to or death to persons (including the Buyer’s agents or employees) or damage to property of any kind, incident to or in connection with the Buildings arising from and after the Closing.
- h. On and after Closing, Buyer shall defend, indemnify and hold harmless Seller, and its parent corporations, subsidiaries and affiliates, and their respective directors, officers, employees and agents from and against any and all liability, cost and expense, including costs of defense and reasonable attorney’s and consultant’s fees, arising out of any environmental contamination of the Line whether occurring prior to the Closing Date or occurring on or after the Closing Date.
- i. On written request from Buyer, Seller will arrange with CSXT to grant access to the Yard to Buyer for the same purposes and on the same terms and conditions as Seller grants to Buyer in this Section.

12. Waiver of Warranties as to Condition of Line –

- a. Buyer acknowledges that Seller has made and will make no representations, warranties, guarantees, statements or information, express or implied, pertaining to the Line or any other assets of the Company (collectively the “Company Assets”), the physical, environmental or other condition thereof, the Company’s title thereto or the Line’s or any other Company Assets’ merchantability or suitability for any use or purpose whatsoever. Buyer shall take the Line and the Company Assets “**AS IS, WHERE IS,**” with all faults and defects in their physical or environmental condition as of the Closing Date; and Buyer assumes all risks of the condition of the Line and the Company Assets, regardless of the cause or date of origin of any environmental condition, and agrees to unconditionally release and does hereby unconditionally release all rights and/or claims against Seller and its affiliate for any such condition or for the costs of remediation or cure of any such condition.
- b. To the extent that the Company’s title to the Line consists of railroad easements, Buyer acknowledges that such railroad easements may not survive the consummation of the abandonment of all or a portion of the Line in accordance with 49 USC Sec. 10903 and 49 CFR Part 1152 as they may be amended, supplemented, or modified from time to time. Without limitation of the generality of any the provision of this Agreement, Buyer acknowledges and agrees that the Line is subject to the following:
 - vi. All existing telecommunications facilities, public and private utilities, reservations, exceptions and restrictions whether or not of record;
 - vii. Legally applicable building, zoning, subdivision and other federal, state, county, municipal or local laws, ordinances and regulations;
 - viii. Property taxes and assessments, both general and special, which may become due or payable on or after the Closing Date, and for which Buyer is responsible in accordance with Section 9;
 - ix. Any and all encroachments which might be revealed by a survey meeting applicable State minimum technical requirements or by an inspection or proper survey of the Line;
 - x. Any and all existing ways and servitudes, and rights of way, howsoever created, for roads, streets and highways; and
 - xi. All other matters recorded in the real property records in the applicable county or counties where the Real Property is located.

- 13. Indemnity** – Buyer shall defend, indemnify, and hold harmless Seller, its affiliates and their officers, agents and employees, from and against any and all liability, cost and expense arising out of or connected with any personal injury, property loss or damage occurring on or after the Closing Date on or about the Line, except for any such liability,

cost or expense arising out of or connected with any action of Seller, its affiliates or their agents or employees on or about the Line on or after the Closing Date.

- 14. Termination** - This Agreement may be terminated prior to the Closing Date by either Buyer or Seller, without further liability or obligation to either of them (other than as provided in any applicable right of entry, confidentiality or nondisclosure agreement and subject to Section 3(c) with respect to the Deposit) in the event of any of the following:

- a. Any claims, litigation or work stoppage shall be threatened or pending in connection with the transactions contemplated by this Agreement;
- b. Either an arbitration award or a judgment arising out of the STB's imposition of labor protection conditions on the Transaction imposes any obligation or expense on either Seller or Buyer which is unacceptable to either or both, excluding the obligation and expense agreed upon in Section 6;
- c. The Closing has not occurred on or before the Closing Deadline, for any reason, including a stay of the STB's orders or the issuance of an injunction prohibiting the consummation of the transaction contemplated herein; provided that a Party in default hereunder may not use its own failure to close as cause for termination;
- d. The STB fails to approve or exempt from approval the Transaction; or
- e. Termination in accordance with any other terms expressly provided for in this Agreement.

- 15. Closing** - Subject to the terms and conditions of this Agreement, and the satisfaction (or waiver by the applicable Party) of the Conditions to Closing set forth in Section 16(a)-(h), the Parties agree that (i) the Purchase Price (net of Deposit) and the capital contribution amount described in Section 2(b), net of the deposit described in the Yard Agreement, shall be delivered by wire transfer to CSXT in immediately available United States Funds on or before 2:00 P.M. EST on _____, 2021; (ii) the Purchase Price, including the Deposit shall be the exclusive property of CSXT at 12:01 A.M. EST on _____, 2021 (the "Closing Date and Time") without further action by either Party based solely on the passage of time from delivery of the Purchase Price including the Deposit until the Closing Date and Time; and (iii) no later than 4:00 P.M. EST on _____, 2021, the Parties shall exchange executed versions of the Transaction Documents (as hereinafter defined). It is further the agreement of the Parties that the Transaction Documents shall be effective as of the Closing Date and Time without further action by either Party or any other party based solely on the passage of time from exchange of the Transaction Documents until the Closing Date and Time. The administration of the Closing and the Transaction Documents shall take place substantially as described in a closing process letter to be entered into between the Parties or their counsel.

- 16. Conditions to Closing** - At or before and as a condition to Closing, the following events or conditions shall have occurred (collectively, the "Conditions to Closing"):

- a. The STB shall have approved or exempted from prior approval requirements the Buyer's purchase of the Shares and operation of the Line, and shall not have imposed any condition(s) (including labor protective conditions) which either Party in its sole and absolute discretion deems unacceptable, except for those conditions agreed upon in Section 6;
- b. The Parties shall have complied with the condition(s), if any, imposed by the STB, in its approval or exemption, to the extent required by the STB's decision to be performed prior to Closing;
- c. The approval or exemption by the STB shall not have been stayed or enjoined by the STB or by any court of competent jurisdiction;
- d. No claim, litigation, labor dispute or work stoppage shall be threatened or pending in connection with the transaction contemplated by the Transaction Documents;
- e. Seller shall have obtained all requisite corporate authority to consummate this Transaction;
- f. The Parties shall have exchanged executed originals of the Transaction Documents;
- g. Buyer shall have delivered any and all consideration then due to Seller; and
- h. Seller shall have paid the Company Indebtedness.
- i. No Event of Force Majeure shall have occurred and be continuing since the date of this Agreement;
- j. The other Party shall have complied in all material respects with all of its obligations under this Agreement that were to be performed on or prior to Closing, including in the case of Buyer as such other Party, the payment of the Purchase Price;
- k. The Closing on the Yard Agreement; and
- l. The Company will deliver the resignations of all officers except those that new management wishes to retain.

17. **Failure to Close** - In the event that one or more of the Conditions to Closing has not been satisfied or waived as of the Closing Date, Seller may in its sole discretion elect to defer the Closing until such time as all Conditions to Closing have been satisfied or waived (by the Party entitled to waive the condition), at which time the Parties shall promptly take all appropriate actions to close; provided however, that if all Conditions to Closing have not been satisfied for reasons not within the Parties' control or waived by the date that is 30 days after the originally scheduled Closing Date, then this Agreement and any other agreements that have been executed to facilitate the Transaction shall all be considered null and void, and neither Party shall have any liability or obligation to the other with respect

to the transaction contemplated herein other than any applicable right of entry confidentiality, nondisclosure and except with respect to the Deposit as provided herein.

18. Not used.

19. Entire Agreement - This Agreement, the Transaction Documents, and any other written agreements entered into between the Parties to effectuate the transfer of the Shares and the other transactions contemplated by this Agreement, and the Exhibits thereto, shall constitute the entire understanding and agreement between the Parties hereto with respect to the subject matter hereof and supersede all other prior understandings and agreements, both written and oral, between or among Buyer and Seller with respect to the subject matter of this Agreement. This Agreement may be supplemented, amended or modified at any time and in any and all respects only by an instrument in writing executed by Buyer and Seller; provided that, in the case of Seller, no Seller employee below the level of Vice President shall be deemed for any purpose to have authority to act on behalf of Seller to waive any rights hereunder, to amend this Agreement, or to otherwise alter any of Seller's rights or obligations hereunder. Time is of the essence in the performance of this Agreement.

20. No Partnership; Expenses - Buyer and Seller understand that no joint venture or fiduciary relationship between or among them is contemplated by either Buyer or Seller in connection with this Agreement and the Transaction Documents, nor shall the execution and delivery or performance thereof be deemed to have created a joint venture or fiduciary relationship between or among them. Except as otherwise provided herein, any and all expenses incurred by either Buyer or Seller in connection with this Agreement and the transactions contemplated hereby shall be borne by the Party incurring such expenses. Neither Seller nor Buyer has or will incur any obligation that would result in the other being liable for any brokerage, finder's fee or similar fee in connection with the transactions contemplated hereby.

21. Arbitration - Except as otherwise provided in this Agreement, any disputes arising under this Agreement or as a result of any of the services or covenants created by this Agreement shall be arbitrated pursuant to the Commercial Arbitration Rules of the American Arbitration Association (AAA) before a single arbitrator knowledgeable in transportation law and the railroad industry; provided however that if the claim exceeds XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX the dispute shall be heard by a panel of three arbitrators, each of whom shall be knowledgeable in transportation law and the railroad industry. The arbitration shall be held in Jacksonville, Florida. Notwithstanding any then-applicable AAA rule to the contrary, each Party to the arbitration shall pay the compensation, costs, fees and expenses of its own witnesses, experts and counsel. The compensation, costs and expenses of the arbitrator(s), if any, shall be borne equally by the Parties hereto. The arbitrator(s) shall not have the power to award consequential or punitive damages. The Parties agree that the results of said arbitration shall be binding, and that any award of the arbitrator or arbitrators shall be enforceable in any court of general jurisdiction.

22. **Applicable Law** - This Agreement shall be construed and enforced in accordance with the laws of the State of Florida, without regard to its conflicts of laws principles.
23. **Counterparts** - This Agreement may be executed in two or more counterparts, each of which shall be deemed an original but all of which together shall constitute one and the same instrument.
24. **Assignment** - This Agreement shall be binding upon Buyer and Seller, and their respective successors and assigns; provided, however, that Buyer shall not assign this Agreement in whole or in part without the prior written consent of Seller, which shall not be unreasonably withheld. Subsequent to Closing, this Agreement may not be terminated or rescinded unless mutually agreed to by the Parties in writing
25. **Survival** - The provisions of this Agreement that by their context require or permit survival shall survive Closing. In the event this Agreement is terminated in accordance with its terms prior to Closing, the provisions of Section 11 shall survive.
26. **Confidentiality and Customer Contact** –
- a. Except as otherwise required by law, regulation or judicial ruling, neither Party hereto may disclose the provisions of this Agreement to a third party, excluding officers, attorneys, financial consultants, or employees of the Parties, or of a parent, subsidiary, or affiliate company, or of other consultants of any of those entities having a bona fide need to know, (other than a Class I railroad, its subsidiaries and affiliate companies) or accounting/auditing firm of any such Party that enters into a confidentiality undertaking reasonably acceptable to the other Party, without the written consent of each other Party, which shall not be unreasonably withheld, conditioned or delayed. For the avoidance of doubt, neither this Section 26 nor any other applicable non-disclosure agreement executed by the Parties in connection with this transaction shall be interpreted to prohibit Buyer's interviews with customers of the Lines conducted in accordance with the terms of this Agreement and without disclosure of any financial terms of this Agreement). Neither Party shall issue a press release or other media announcement without the prior written consent of the other Party.
 - b. Upon execution of this Agreement Seller and CSXT will permit Buyer to contact the Company's customers located on the Line and the Yard, with the Parties agreeing to the following steps in this order: (1) CSXT's Sales and Marketing Department personnel will facilitate those conversations by notifying the customer of the proposed transition of the Company's[and Yard's ownership and operation, (2) CSXT will provide Buyer with each customer's primary contact information, and (3) Buyer shall reach out to the Company's and Yard's customers in an expeditious manner. Seller will arrange with CSXT to ensure that CSXT complies with this Section 26(b).
27. **Beneficiaries** - Except as otherwise specifically provided herein, nothing contained in this Agreement is intended to, nor shall it be construed to, confer any right or benefit upon any

party other than the Parties, their respective successors and assigns, and the affiliates of each named herein as their interests may appear at the time.

28. **Severability** - If any term or provision of this Agreement, or its application to any Party or set of circumstances, shall be held, to any extent, invalid or unenforceable, the remainder of this Agreement, or the application of the term or provision to persons or circumstances other than those as to whom or which it is held invalid or unenforceable, shall not be affected; and each shall be valid and enforceable to the fullest extent permitted by law; and a valid and enforceable provision as similar as possible to one held invalid or unenforceable shall be substituted in its place.
29. **Notice** - All notices or other communications given pursuant to this Agreement shall be sent by United States express, certified or registered mail, or by a private courier service providing proof of delivery, addressed as set forth below (or to such other address as each of the Parties hereto may designate by written notice to the other Parties). A return receipt shall be conclusive evidence of the fact, date, and time of receipt.

If to Seller:

The Carrollton Railroad
c/o CSX Transportation, Inc.
500 Water St., J-801
Jacksonville, Florida 32202
Attention: Director – Intercarrier Management

With additional copies to:

Strategic Planning
CSX Transportation, Inc.
500 Water St., J-801
Jacksonville, Florida 32202
Attention: Director – Strategic Planning

and

Real Estate
CSX Transportation, Inc.
500 Water St. J-180
Jacksonville, Florida 32202
Attention: Director – Asset Management

If to Buyer:

MB Rail TTI, LLC
Attention: Ivory Beggs
10100 N. Ambassador Drive, Suite 105
Kansas City, Missouri 64153
Facsimile: 816-268-2319
Email: a.beggs@mbrail.com

With additional copies to:
Wallace Saunders
10111 West 87th Street
Overland Park, KS 66212
Attention:
Karl Kuckelman
Christopher C. Confer
Facsimile: 913-888-1065
Email: kk@wsabe.com; cconfer@wallacesaunders.com

30. **Exhibits** - All Exhibits referred to in this Agreement are intended to be, and are hereby, incorporated herein and specifically made a part of this Agreement.
31. **Change of Control** - Buyer shall not, and shall not permit the Company to, sell or lease, grant trackage rights or any other type of operating agreement, or enter into a haulage agreement, for all or a substantial portion of the Company, engage in a transaction subject to 49 U.S.C. 11323 with respect to any portion of the Company (including the capital stock of the Company) or otherwise engage in a change of control transaction (where control is defined as provided in 49 U.S.C. 10102(3)) (in each case, a "Control Transaction") with a Prohibited Party. A "Prohibited Party" means (a) a Class I railroad or an entity that directly or indirectly owns or controls, is under common control with, or is controlled by a Class I railroad or (b) an entity that is named as an adverse participant in any litigation, arbitration or regulatory matter involving CSXT or an entity that directly or indirectly owns or controls, is under common control with, or is controlled by any such entity. Buyer shall provide written notice to CSXT of any proposed Control Transaction no less than forty-five (45) days prior to (i) submitting any request to the Surface Transportation Board ("STB") for approval, exemption, or any other type of approval for the Control Transaction or (ii) the intended closing of the Control Transaction, if STB approval, exemption, or any other type of approval for the Control Transaction is not required, whichever occurs earlier (the "Minimum Notice"). In the event the Control Transaction is with a Prohibited Party, Seller and CSXT, or either of them, shall have the option, upon written notice to Buyer within thirty (30) days of receipt of Buyer's written notice of the Control Transaction to elect to purchase the entire capital stock of the Company at the then net liquidation value of the assets comprising the

Company as defined by the STB at 49 CFR 1152.34(c)(iii), on substantially the same regulatory conditions as those pursuant to which Buyer acquired the Company, and in such manner as to place Seller and CSXT in substantially the same position as they were prior to the conveyance of the Company and the Yard to Buyer. The conveyance will take place promptly following Seller's or CSXT's written notice of its election to acquire the Company. The provisions of this Section shall be binding upon all successors or assignees of Buyer and the Company. Buyer and the Company shall not enter into any agreement that does not have such a binding effect on any successors or assignees and on their successors and assignees. Buyer shall provide written notice (via nationally recognized overnight courier) to:

CSX Transportation, Inc.
500 Water Street
Jacksonville, FL 32202
Attn. Director of Strategic Planning

with a PDF version of said notice to each of christopher_maffett@csx.com and steven_armbrust@csx.com of an intended Control Transaction no less than fourteen (14) days nor more than twenty-one (21) days in advance of the Minimum Notice and seek CSXT's acknowledgement that a proposed Control Transaction is not with a Prohibited Party without triggering Seller's and CSXT's right to repurchase described in this Section (the "Approval Notice"). CSXT shall endeavor to respond to Buyer within five (5) business days of the Approval Notice, provided, however, that a lack of response shall not indicate CSXT's consent and in the event Buyer proceeds with a Control Transaction without further inquiry, any determination of whether or not a Control Transaction is with a Prohibited Party will remain subject to the dispute resolution process of this Agreement.

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IN WITNESS WHEREOF, the Parties hereto, by their duly authorized representatives, have executed and delivered this Purchase and Sale Agreement as of the day and year first above written.

ATTEST: THE CARROLLTON RAILROAD

By: _____
Print Name: _____
Print Title: _____

ATTEST: MB Rail TTI, LLC

By: _____
Avory Beggs
Manager

EXHIBIT A
Map Depicting Line

EXHIBIT B
Property Description

EXHIBIT C
Declaration of Restrictive Covenants

EXHIBIT D
Certificate of Indebtedness

EXHIBIT E
Assignment and Assumption Agreement

EXHIBIT E-1
Fully Assigned Agreements

EXHIBIT E-2
Partially Assigned Agreements

EXHIBIT E-3
Retained Agreements

EXHIBIT F
Individual Release and Right of Entry Agreement

EXHIBIT A
MAP DEPICTING LINE

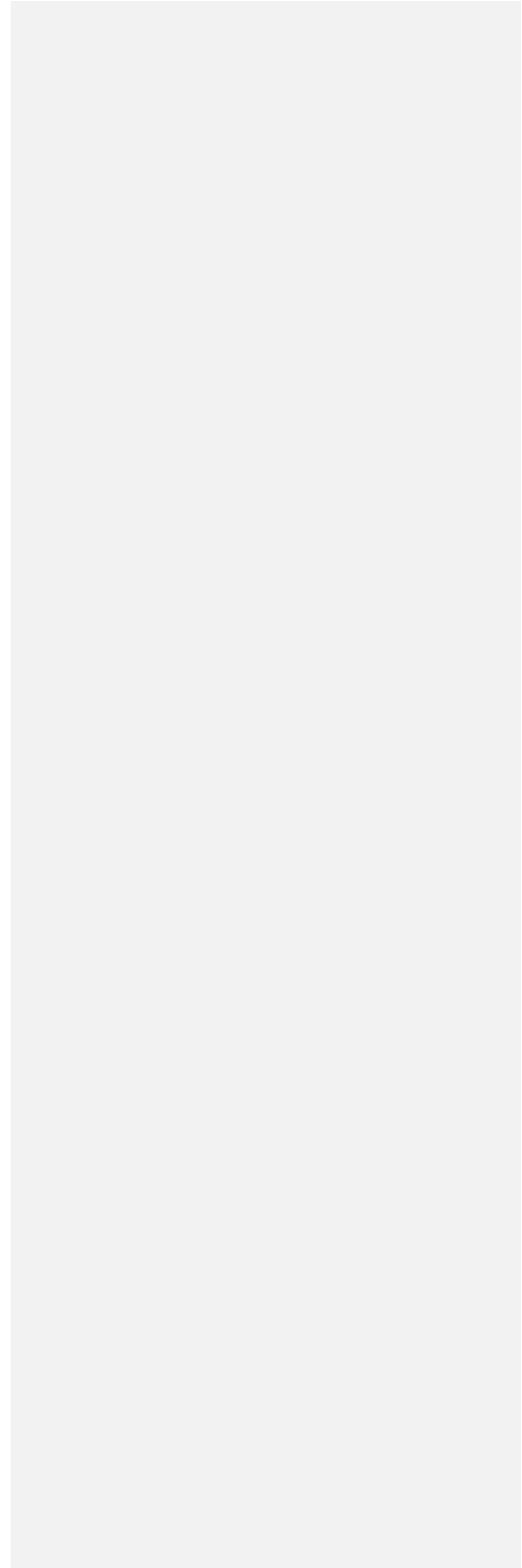


EXHIBIT B
PROPERTY DESCRIPTION

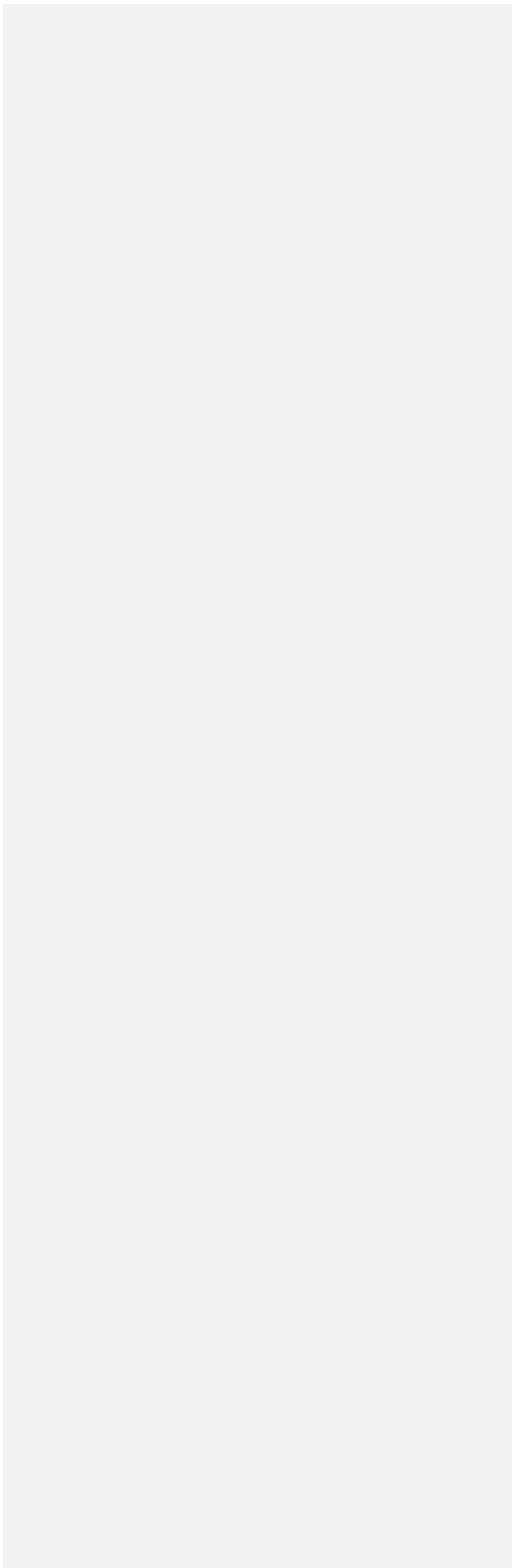


EXHIBIT C
DECLARATION OF RESTRICTIVE COVENANTS

EXHIBIT D
CERTIFICATE OF INDEBTEDNESS

CERTIFICATE OF INDEBTEDNESS

I, Sean Pelkey, hereby certify that I am _____ [Title] of TransKentucky Transportation Railroad, Inc. (the “Company”) and that I have familiarized myself with the financial position of the Company as of _____ 2021 (the “Closing Date”).

I hereby certify that the Company has no unpaid principle amounts, or accrued and unpaid interest, on borrowed monies of the Company as of the open of business on the Closing Date.

This certification does not include any accounts payable which may be open as of the Closing date.

[Title]

EXHIBIT E
ASSIGNMENT AND ASSUMPTION AGREEMENT

ASSIGNMENT AND ASSUMPTION AGREEMENT

FOR VALUE RECEIVED, this ____ day of ___. 2021 (the “Effective Date”), in connection with that certain Stock Purchase Agreement dated as of _____, 2021 by and between TransKentucky Transportation Railroad, Inc. (“Assignor”) and CSX Transportation, Inc. (“Assignee”), (the “Stock Agreement”), Assignor and Assignee have entered into this Assignment and Assumption Agreement (the “Assignment”). Assignor does hereby (i) fully assign unto Assignee all of the right, title and interest of Assignor in those agreements, leases, licenses and ordinances, indicated on Exhibit E-1, attached hereto and made a part hereof (the “Fully Assigned Agreements”); and (ii) partially assign unto Assignee the right, title and interest of Assignor in those agreements, leases, licenses and ordinances indicated on Exhibit E-2, attached hereto and made a part hereof (the “Partially Assigned Agreements,” and together with the Fully Assigned Agreements, the “Assigned Agreements”). With respect to such partial assignment, Assignor’s intent is to assign only so much of the agreements indicated on Exhibit E-2 as affects the property covered by the Stock Agreement. This Assignment is not intended to assign or transfer and shall not be construed as assigning or transferring any of Assignor’s rights and interests in (i) those portions of any agreement that do not pertain to the Lines as defined in the Stock Agreement or (ii) the Retained Agreements listed in Exhibit E-3, attached (“Retained Agreements”).

Effective upon the Effective Date, Assignee hereby accepts the assignment and transfer by Assignor and assumes all of Assignor’s obligations and liabilities arising under or connected with the Assigned Agreements and which occur on or after the Effective Date and agrees to perform all of the Assignor’s responsibilities and obligations under the Assigned Agreements occurring on or after the Effective Date. All rights and obligations under the Assigned Agreements (to the extent not already assigned to Assignee) arising prior to the Effective Date shall remain the rights and obligations of Assignor and not Assignee; provided however, that any and all prepaid fees, charges, rent or income under any of the Assigned Agreements due or payable prior to the date of this Assignment and received by Assignor shall be prorated as between Assignor and Assignee (or Assignee’s affiliate, The Carrollton Railroad, at the Closing contemplated in the Stock Agreement .All rights and obligations under the Assigned Agreements arising after the Effective Date shall be the rights and obligations of Assignee and not Assignor. Assignor shall indemnify, defend and hold Assignee harmless from and against any and all claims, liabilities and costs (including

reasonable attorneys' fees) arising out of or relating to Assignor's failure to perform any duty or obligation under the Assigned Agreements (to the extent not already assigned to Assignee) which was to have been complied with or performed before the Effective Date. Assignee shall indemnify, defend and hold Assignor harmless from and against any and all claims, liabilities and costs (including reasonable attorneys' fees) arising out of or relating to Assignee's failure to perform any duty or obligation assumed by Assignee under the Assigned Agreements which occurs on or after the Effective Date. The Assigned Agreements may grant or confer to others, not party to the Assigned Agreement, fiber optic occupancies, rights, interests and privileges in or pertaining to the real and personal property conveyed, assigned and transferred by Assignor to Assignee, and with respect to such rights of others, from and after the Effective Date, Assignee shall not cause or suffer any interference with the enjoyment and use of the rights, interests and privileges granted or conferred in the Assigned Agreements and shall not cause or suffer any breach of such Assigned Agreements. Within thirty (30) days after the Effective Date, Assignor and Assignee shall deliver a joint written notice of this Assignment to each lessee, licensee or grantee to the current address of each.

Assignor makes no representations or warranties of any kind regarding the quality, content or duration of the Assigned Agreements. Assignee has reviewed the Assigned Agreements and is relying on such review for all purposes whatsoever, including, without limitation, the determination of the scope, duration, character, condition, and suitability of the Assigned Agreements.

For certain of the Assigned Agreements, there may be work or actions required thereunder not fully completed or taken as of the date of this Assignment. Assignee shall be responsible for any work or actions under such agreements not performed or taken as of the date of this Assignment, and shall look solely to the other party under the Assigned Agreements for compensation, if any, in connection therewith.

THE ASSIGNED AGREEMENTS ARE ASSIGNED AND TRANSFERRED AS IS, WHERE IS AND WITH ALL FAULTS, DEFECTS AND CONDITIONS OF ANY KIND, NATURE OR DESCRIPTION AS OF THE EFFECTIVE DATE. THERE HAVE BEEN NO REPRESENTATIONS, WARRANTIES, GUARANTEES, STATEMENTS OR INFORMATION, EXPRESSED OR IMPLIED, PERTAINING TO SUCH ASSIGNED AGREEMENTS, THE VALUE THEREOF, OR ANY OTHER MATTER WHATSOEVER,

MADE TO OR FURNISHED TO ASSIGNEE BY ASSIGNOR OR ANY OF ITS OFFICERS, AGENTS OR EMPLOYEES.

This Assignment shall inure to the benefit of and be binding upon the respective successors and assigns of the parties hereto.

In addition to the acts and deeds recited herein and contemplated to be performed, executed and/or delivered by either Assignor or Assignee hereunder, Assignor and Assignee agree to perform, execute and deliver, but without any obligation to incur any additional liability or expense, after the date hereof, any further deliveries and assurances and take such other action(s) as may be reasonably necessary to effect the purposes of this Assignment. Should Assignor discover or otherwise learn of any contract(s), agreement(s), lease(s), license(s), occupancy agreement(s), permit(s) or easement(s) pertaining to the assets conveyed to Assignee on the Effective Date that were omitted from this Assignment, as applicable, Assignor and Assignee shall amend the Exhibits hereto to incorporate any such documents and Assignee shall accept assignment thereof in the manner designated for Assigned Agreements and subject to the Retained Agreements as set forth above, with Assignor and Assignee being placed in the same legal position as if said transfer had taken place on the date hereof.

This Assignment shall not be recorded.

ATTEST: TransKentucky Transportation Railroad, Inc. (Assignor)

By: _____
Title: Name: _____
Title: _____

ATTEST: CSX Transportation, Inc. (Assignee)

By: _____
Title: Name: _____
Title: _____

EXHIBIT E-1
FULLY ASSIGNED AGREEMENTS

EXHIBIT E-2
PARTIALLY ASSIGNED AGREEMENTS

EXHIBIT E-3
RETAINED AGREEMENTS

EXHIBIT F
INDIVIDUAL RELEASE AND RIGHT OF ENTRY AGREEMENT

I, _____ (hereinafter "Undersigned") which includes Undersigned, Undersigned's heirs, executors, administrators, contractors, employees, officers, shareholders, agents, or assigns), in consideration of the permission granted by CSX Transportation, Inc., a Virginia corporation with its principal place of business in Jacksonville, Florida and TransKentucky Transportation Railroad, Inc. a _____ corporation with its principle place of business in Jacksonville, Florida (hereafter jointly and separately, "Railroad") to MB Rail TTI, LLC, its affiliated companies and consultants, to enter upon the Paris Yard and line of railroad owned by Railroad for the purpose of examining the condition of the railroad facilities, and general familiarization with the properties in contemplation of a possible transaction involving the properties. Undersigned understands and agrees as follows:

[If visitor will be unaccompanied] [Undersigned must notify Roadmaster of the intended time of entry at least twenty-four (24) hours in advance.]

[If visitor will be accompanied] [Undersigned shall be permitted to enter the properties under the supervision of Railroad officers as part of an arranged tour, which may include a hi-rail trip over some or all of the properties.]

This right-of-entry will expire _____, 2021.

Undersigned hereby voluntarily assumes all risks associated with entry onto the property. Additionally, Undersigned agrees to indemnify, defend, and hold Railroad harmless from and against all claims, demands, losses, settlements, damages, costs, and expenses arising from any injury to or death of any person or from loss of or damage to any property including but not limited to property owned by Undersigned, in Undersigned's custody, or owned by Railroad, arising from or occurring in connection with the exercise or attempted exercise of the aforesaid permission, even if such injury, death, loss, or damage results from negligence attributable in whole or in part to Railroad, its agents, employees, or otherwise.

Undersigned further covenants and agrees that Undersigned will be bound by all orders, rules, and regulations of Railroad, and that Undersigned will not in any manner create an unsafe condition by Undersigned's presence or actions on Railroad property. If any Railroad officer or employee deems the presence of Undersigned to create an unsafe or hazardous condition, Undersigned will immediately, upon request, leave the premises. All personnel working on or over Railroad's right-of-way must comply with CSX Safety Rules, including but not limited to the use of hard hats, eye protection, and safety shoes, and those Safety Rules will apply to Undersigned during his or her presence on the properties.

Undersigned further agrees that this permit is not transferable, and if presented by any person other than the Undersigned, or if presented after the dates and times names above, shall be null and void.

(Signature Page Follows)

Signed and sealed this _____ day of _____, 2021

Witness

Signature
Print name: _____

(Signature Page to Individual Release and Right of Entry Agreement)

Exhibit C

Draft Operating Agreement

Public Version (Redacted)

CONFIDENTIAL

Freight Operating Agreement

Between:

CSX TRANSPORTATION, INC.

and

TRANSKENTUCKY TRANSPORTATION RAILROAD, INC.

This FREIGHT OPERATING AGREEMENT (this “Agreement” or “FOA”) is made as of the ___ day of ___, 2021 (the “Commencement Date”), by and between CSX Transportation, Inc. (“CSXT”), a Virginia corporation and TransKentucky Transportation Railroad, Inc., a Kentucky corporation (“TTI” and, together with CSXT, the “Parties” and individually, a “Party”).

WHEREAS, TTI is currently a direct subsidiary of Carrollton Railroad, Inc., a Kentucky Corporation (“Carrollton”),

WHEREAS, Carrollton is a direct subsidiary of CSXT,

WHEREAS, MB Rail TTI, LLC (“MB Rail”), has entered, or will enter, into a definitive Stock Purchase Agreement with Carrollton, whereby MB Rail will acquire all of the capital stock of TTI,

WHEREAS, CSXT and TTI currently participate in interline freight traffic and interchange such traffic at Paris, KY and will continue to do so after MB Rail acquires the capital stock of TTI,

WHEREAS, TTI has entered, or will enter, into that certain Yard Agreement whereby TTI will acquire certain yard facilities of CSXT at Paris, KY,

WHEREAS, the Parties now wish to establish certain arrangements between themselves in furtherance of continued interchange and participation in interline freight traffic,

WHEREAS, MB Rail has sought or will seek in the near future, approval or exemption of the Transaction (as defined below) from the United States Surface Transportation Board as required by 49 U.S.C. Section 10901 or 10902, as applicable, and the STB’s regulations, as applicable.

WHEREAS, the Parties now wish to enter into an agreement governing the commercial and operating relationship between them.

NOW, THEREFORE, for and in consideration of the foregoing premises and the mutual covenants and obligations hereinafter set forth, the Parties to this Agreement hereby agree as follows:

PART 1 - DEFINITIONS

1.1 As used in this Agreement, the following terms shall have the meanings as specified here:

“AAR” shall mean the Association of American Railroads.

“AAR Car Hire and Car Service Rules” shall mean the rules contained in AAR Circular OT-10 governing settlement for the use of and the handling of railroad-marked cars between common carrier railroads as amended from time to time.

“AAR Circular OT-10” shall mean AAR Transportation Division Circular No. OT-10, as published in the Official Railway Equipment Register and amended from time to time.

“AAR Railway Accounting Rules” shall mean the Railway Accounting Rules (including ISS Rules) published by the AAR, effective December 1, 2016, as amended and updated.

“AAR Interchange Rules” shall mean the mechanical interchange rules as published in the Office and Field Manuals of the AAR Interchange Rules as amended from time to time.

“AEI Reader” shall mean a device capable of electronically identifying a properly equipped rail car as the rail car passes the location of the AEI Reader.

“AII-LF” shall mean the All Inclusive Index – Less Fuel as published by the Association of American Railroads.

“Annual Adjustment” shall mean the annual increase or decrease, applied on the Annual Adjustment Date, to the Factors (other than Exempt Factors), as calculated pursuant to the formula set forth in Appendix B-1.

“Annual Adjustment Date” shall mean July 1st of each year during the Term of this Agreement.

“Annual Adjustment Index” shall mean the percentage increase or decrease, as calculated pursuant to Appendix B-1, to be applied on the Annual Adjustment Date to the Factors (other than Exempt Factors) in effect immediately prior to the Annual Adjustment Date.

“Appendix B Factor” shall have the meaning given to it in Section 0.

“Car Hire” shall mean the charge to be paid for use of a railroad car while on the lines of a carrier that is not the car owner and includes time and mileage charges.

“Commencement Date” shall mean the first day on which MB Rail has acquired the TTI Stock.

“CSXT” shall mean CSX Transportation, Inc.

“EDI” shall mean the transfer of data via Electronic Data Interchange.

“Exempt Factor” shall have the meaning given to it in Section **Error! Reference source not found.**

“Expiration Date” unless this Agreement is sooner terminated, shall mean the earliest to occur of (i) the thirtieth (30th) anniversary of the Commencement Date or (ii) the date when TTI ceases to operate as a common carrier over the Lines after satisfying all conditions to cease operations, as may be required by the Surface Transportation Board (or any successor entity); provided, however, that this Agreement shall continue to apply to any portion of the Lines over which TTI continues to operate as a common carrier.

“Factor” shall mean, as the context may require, an Appendix B Factor or an Exempt Factor, or each of them.

“IRCS” shall mean Integrated Railroad Control System, a software package system copyrighted by Railcar Management, Inc., used for the electronic interchange of railroad operating and accounting data.

“Interchange Agreement” shall mean the agreement attached hereto as Appendix A governing the location and other terms for the exchange of traffic between CSXT and TTI.

“Interline Settlement System” shall mean the system of dividing and paying to each participating carrier in an interline movement of freight that carrier’s respective portion of the total freight charges all as provided in the AAR Railway Accounting Rules.

“Junction Settlement Railroad” shall have the meaning given the term in the Railway Accounting Rules of the Association of American Railroads.

“Lines” shall mean the real property and railroad facilities of TTI, including the Yard to be acquired by TTI.

“Mileage Allowances” shall mean the charges to be paid for use of a private (not railroad-supplied) rail car.

“Positive Train Control” or “PTC” shall mean the requirements for an interoperable train control system designed to prevent train-to-train collisions; derailments caused by excessive speed; unauthorized incursions by trains onto sections of track where maintenance activities are taking place; and movement of a train through a track switch left in the wrong position, as set forth in the Rail Safety Improvement Act of 2008, the Surface Transportation Extension Act of 2015 and regulations found at 49 CFR Part 236, Subpart I.

“Real Property Rights” shall mean all those certain air rights, mineral rights, access rights, and easements, together with the rights to exercise and to administer them, all as granted to CSXT by TTI in that certain Declaration of Restrictive Covenants and Grant of Easements as contemplated in the Stock Agreement and the reserved rights (including easements) enumerated in the Yard Agreement.

“ShipCSX®” shall mean an internet-based computer software application owned by CSXT, and any replacement software application that CSXT may from time to time adopt to perform similar functions.

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

“Stock Agreement” shall mean that certain Stock Purchase Agreement Dated as of __ ____, 2021, by which MB Rail is to acquire the TTI Stock

“Switch Carrier” shall have the meaning given the term in the AAR Railway Accounting Rules.

“Switching Settlement Data Exchange” or “SSDX” shall mean the Railinc application that processes switching charges via the Railroad Clearinghouse for net settlement each month.

“Term” shall mean the period between the Commencement Date and the Expiration Date.

“TTI Stock” shall mean the entire capital stock of TTI.

“Transaction” shall mean the acquisition of the TTI Stock and the Yard by MB Rail and TTI respectively.

“Yard” shall mean the rail facilities acquired by TTI from CSXT pursuant to the Yard Agreement.

“Yard Agreement” shall mean the asset purchase agreement between CSXT and TTI by which CSXT will contract to convey to TTI all or a portion of its right, title and interest in and to the Yard.

PART 2 - - ONGOING TRAFFIC RELATIONSHIPS

- 2.1 Purpose. The Parties agree that the method of best achieving efficient rail service to and from the Lines, and to customers served in conjunction with CSXT, is to establish a mutually beneficial arms-length commercial arrangement between CSXT and TTI.
- 2.2 Scope. It is the intention of the Parties that rail freight transportation be conducted over the Lines efficiently, consistent with the ability of the Parties to retain and increase the rail freight business.
- 2.3 Common Carrier. TTI understands and agrees that it will be a common carrier railroad, and will have the full common carrier responsibility with respect to service to and from shippers located on the Lines. With respect to movements other than those described in Section 2.4, TTI understands and agrees that it will have the status, rights, and obligations of a line haul rail carrier and shall not characterize itself as a switching carrier in its relationship with CSXT. All interline movements between CSXT and TTI shall be billed to customers as joint line rates.
- 2.4 Switching Service. All movements originating or terminating at customer locations listed in Appendix B shall be in switching service. For all such movements, TTI shall hold itself out in its public and private pricing documentation as providing only switching service to and from CSXT. TTI's charge to CSXT for switching service shall be as provided in Appendix B. All switch movements shall be billed through SSDX.
- 2.5 Junction Settlement. With respect to all movements not in switching service, TTI shall be a Junction Settlement Railroad and not an “ISS” carrier. Payments to TTI by CSXT as TTI's share of revenue shall be made accordingly.

2.6 Adoption.

2.6.1 Effective upon the Commencement Date, TTI's tariff shall (i) identify all stations on the Lines as stations to which it holds itself out to provide service, and shall include all classifications, rules, concurrences, traffic agreements, authorities, powers of attorney, and other instruments whatsoever insofar as said instruments apply to, from, or via the adopted stations., and (ii) identify terms and prices for switching service as described in Appendix B. If TTI's acquisition of the Yard requires adoption of any former CSXT stations and the establishment of new charges for switching service, these actions shall be evidenced by publication, filings and notices to the appropriate regulatory authorities and rail industry agencies.

2.6.2 At least thirty days in advance of the Commencement Date, TTI shall certify to CSXT that it has taken all actions called for under this Section 2.6.

2.7 Industry Agreements. Prior to the Commencement Date, TTI will become, or will continue to be, a signatory to the AAR Car Hire and Car Service Rules, the AAR Interchange Rules, and the AAR Railway Accounting Rules.

2.8 Pricing of Line Haul and Switching Services.

- 2.9 Accessorial Charges. TTI shall establish, publish and administer a schedule of such other rules and charges governing matters customary in the rail industry, including demurrage charges, as TTI shall deem appropriate; provide that TTI shall not establish, publish or administer a rule or charge designed solely to increase its revenue factor outside the provisions of Section 2.8.
- 2.10 Price Publication and Administration. CSXT, from or to local CSXT stations and for all overhead movements via TTI, shall have sole responsibility for establishing, publishing and administering both public and private rate authorities (including, but not limited to, tariffs, contracts, PPLCs, and similar pricing documents) for all line haul movements. When, by rail industry practice, the publication and administration of a line haul price is the responsibility of another carrier (as for example prices for joint line movements originating on a western Class I carrier), CSXT shall have responsibility for coordinating with the publishing carrier. TTI agrees that it will not publish rates for line haul movements.
- 2.11 Rail Transportation Contracts. In connection with CSXT's exercise of its discretion under Section 2.10, TTI hereby grants to CSXT the right and power of attorney to execute transportation contracts with shippers for movements to, from, and via stations on the Lines without TTI's prior consent, so long as CSXT provides TTI with a line-haul revenue factor equal to or greater than the Appendix B Factor. Pursuant to rail industry practice, TTI will not be a party to any contract governing a movement as to which it is solely a switch carrier.
- 2.12 Agents. TTI may from time to time designate an agent or contractor (other than CSXT) to perform, on behalf of TTI, some or all of the administrative responsibilities associated with its obligations undertaken in this Agreement; provided, however, that TTI shall remain primarily responsible to CSXT for the performance by that agent or contractor.

- 2.13 Authority. No action or inaction, whether in writing oral or electronic, by CSXT market managers, sales personnel, or more senior management shall be deemed to constitute an amendment to this Agreement or waiver of CSXT's rights under this Agreement unless contained in an executed exemption letter under Section Error! Reference source not found. or a formal, written Amendment to this Agreement, denominated as such and signed by Vice Presidents of the Parties.

PART 3 - - CONTINUING OPERATIONS

- 3.1 Application. The handling and administration of freight traffic that originates, terminates or moves via the Lines after the Commencement Date, and is interchanged between CSXT and TTI, shall be governed by this Part 3.
- 3.2 Billing. CSXT shall be responsible for billing all line haul and related charges. TTI shall be responsible for all billing of switching and accessorial charges and related administrative functions.
- 3.3 Interchange. CSXT and TTI shall interchange traffic in the vicinity of Paris, KY at the locations and in the manners specified in one or more interchange agreements, in form and substance substantially as set forth in Appendix A, which shall be entered into contemporaneously with this Agreement. CSXT shall have the right, upon 30 days' prior written notice to TTI, to change the location(s) of the point(s) of interchange for delivery and/or receipt of traffic. Upon the effective date of that notice, the applicable Interchange Agreement shall be deemed to have been amended to reflect the new point, or points, of interchange.
- 3.4 Proposals for New Interchange. If, at some time in the future during the Term, TTI believes that business opportunities to and/or from customers located closer to Maysville, KY than to the interchange at Paris, KY require establishment of a physical interchange between the Parties near Maysville, KY, TTI may present a written proposal to CSXT. The Parties shall meet and discuss the commercial, operational and financial practicality of creating the proposed interchange to serve such customers. The commercial, operational and financial considerations of each Party shall be deemed of equal importance in such discussions. Neither Party shall be required to agree to create such an additional interchange nor to any specific terms of an interchange arrangement, and the decision of either Party not to do so shall be final and not subject to arbitration under Section 6.10.2.
- 3.5 Responsibility for Operations. No provision of this Agreement shall be construed to impose any right or obligation on CSXT to provide direct service to any station or point on the Lines or to use or make available its own or any other locomotives or crews for purposes of providing rail freight service to, from, or via any station or point on the Lines.
- 3.6 Data Exchange and Other Information Systems Requirements. TTI will supply its own data exchange and information systems hardware, software and related services, which shall be within two versions of the then-current AAR standard. TTI will use its best efforts to work with CSXT to maximize the electronic flow of information. TTI shall electronically transmit within 24 hours, records of cars that have been rejected for loading. TTI shall

install electronic data interchange with the AAR, and shall transmit via EDI to CSXT Bill of Lading Instructions and advance train consist information prior to arrival at interchange point(s). The Parties will work cooperatively to ensure that any TTI access to CSXT data or communications systems or CSXT proprietary information that existed prior to the Commencement Date is terminated.

- 3.7 Positive Train Control. If required by Federal Railroad Administration (the “FRA”) PTC regulations prior to TTI operating as a tenant over any tracks controlled by CSXT with Positive Train Control, TTI shall equip its locomotives with PTC technology, at its sole cost and expense, and ensure its equipment is interoperable with CSXT’s PTC systems in accordance with CSXT’s then-current interoperability requirements (current version attached hereto as Appendix D and made a part hereof). With respect to any portion of the Lines, if applicable, CSXT and TTI will jointly request removal of that portion of the Lines from CSXT’s PTC Implementation Plan in accordance with the requirements of 49 CFR 236.1005(b)(5). In the event FRA denies such request, or in the event PTC is not required on that portion of the Lines as of the Commencement Date but such requirement arises for any reason at any subsequent date, TTI shall install and maintain on that portion of the Lines any equipment, hardware, communications capabilities, and information systems needed to comply with FRA PTC regulations, all at TTI’s sole cost and expense.
- 3.8 Traffic. At each point of interchange, CSXT shall have the right to request that TTI deliver traffic to CSXT in up to three blocks as CSXT may from time to time establish.

PART 4 - - FREIGHT CAR USE AND COMPENSATION

- 4.1 Car Supply and Reclaim. The rights and responsibilities of CSXT and TTI for car supply, Car Hire and Mileage Allowances, as between themselves, shall be governed by the terms of this Part 4.
- 4.2 Governing Agreements. Prior to the Commencement Date, CSXT and TTI shall have subscribed to the Car Hire and Car Service Agreement contained in AAR Circular No. OT-10, which together with the Code of Car Hire Rules and Code of Car Service Rules (except as modified herein), shall govern the use and movement between the Parties of cars bearing railroad reporting marks. TTI shall also, prior to the Commencement Date, adopt and become a participating carrier in Freight Tariff RPS 6007 (private car mileage) and Freight Tariff RPS 6740 (heavy duty flat cars). TTI shall also, prior to the Commencement Date, become a signatory to the American Rail Box Car Company Form BX Contract, the Railgon Form G Car Contract, and become a permanent nonmember payor of the TTX Company Form A Car Contract. Prior to Commencement Date, TTI shall certify compliance with this Section 4.2. To the extent said agreements are inconsistent with the provisions of this Agreement, the provisions of this Agreement shall control relationships between CSXT and TTI.
- 4.3 Payment of Car Hire and Mileage Allowances. TTI shall be responsible to pay all Car Hire and Mileage Allowances accrued on its Lines for a foreign car or a private car (as defined in AAR Circular No. OT-10) including but not limited to cars owned by TTX Company or its affiliates (the “TTX Cars”), directly to the party to whom such charges are due as car

owner or car lessee. Should CSXT be charged for or inadvertently pay Car Hire or Mileage Allowance accrued on foreign or private cars (including TTX Cars) moving on the Lines, CSXT shall have the right to collect from TTI the Car Hire or Mileage Allowance costs it is so charged or has so paid, by deducting such amount from any available intercarrier account between CSXT and TTI. TTI shall not reclaim any car hire for cars originating or terminating on the Lines unless allowed under the AAR Car Hire and Car Service Rules.

4.4 Car Supply. CSXT shall have no special duties or obligations to TTI with respect to car supply and car service. CSXT will make commercially reasonable efforts to supply cars upon reasonable request, but supply and demand for cars does and will vary. CSXT undertakes only to supply cars on generally the same basis that it supplies cars to customers it directly serves and under no circumstances whatsoever shall CSXT have any liability to TTI or any third party for failure to provide car supply. TTI is solely responsible for car ordering for CSXT interline traffic originating on the Lines, and shall so advise shippers on the Lines.

4.5 Car Hire Rates. The car hire rates payable by TTI for freight cars bearing the reporting marks of CSXT (including all marks assigned to CSXT) shall be as set forth in Appendix C. Thereafter, such rates shall remain in effect until changed by agreement of the Parties or as provided by the arbitration rules of the Association of American Railroads, which shall apply in lieu of the arbitration provisions of this Agreement.

4.5.1 In the event that CSXT cannot or, for any reason, does not supply a car for loading on the Lines, TTI may place a car for loading using cars bearing its own or a third party's marks, subject to the following conditions:

4.5.1.1 the time and mileage charges to be paid by CSXT for the use of such car on CSXT shall not exceed the time and mileage charges for that type of car set out in Appendix C;

4.5.1.2 TTI shall save, defend, indemnify and hold CSXT harmless for any claims by third parties against CSXT for payment of time and mileage charges to the extent such charges exceed those set out in Appendix C; and

4.5.1.3 No box cars subject to the exclusions set forth in 49 C.F.R. § 1039.14(c)(2) (sometimes colloquially referred to in the industry as a "grandfathered boxcar") shall be placed for loading on the Lines unless CSXT has negotiated agreed-upon car hire rates with the entity entitled to payment of car hire for such cars.

4.5.1.4 In the event that CSXT pays time and mileage charges in excess of the time and mileage charges set out in Appendix C, CSXT shall recover the difference through a "Special Reclaim" as defined in the AAR Car Hire and Car Service Rules.

- 4.6 Setback and Other Charges. Neither Party shall seek to impose on the other, either directly or indirectly, charges or liabilities of any type, including without limitation charges for rejected cars, mis-delivery, delay or setback, whether by tariff or otherwise.
- 4.7 Car Orders. TTI will be responsible to gather car orders and forecast car needs from shippers on the Lines. TTI will provide to CSXT, via ShipCSX®, a weekly car order in accordance with Publication CSXT 8100 (as amended from time to time). The weekly car order shall indicate TTI's bona fide expectation of needs for the following workweek (Monday through Sunday). All car orders should be in CSXT authorized format and specify the number of cars anticipated to be required by type and size, and the date desired. CSXT may from time to time change its procedures for car ordering and TTI shall accommodate such procedures to the extent they are generally applicable to CSXT's Class III connections.
- 4.8 Cleaning and Pre-Inspection. TTI will not be responsible for any CSXT freight car cleaning or pre-inspection services required to satisfy shipper equipment quality requirements for cars to be loaded on the Lines. Any car rejected by a shipper as unfit for loading may be returned to CSXT by TTI at no charge to either CSXT or TTI, but TTI shall not be entitled to any car hire relief for such cars.
- 4.9 Demurrage. TTI shall have the right to determine what demurrage charges, if any, to assess to shippers when cars, including cars bearing CSXT's marks, are on its Lines and shall be responsible for the billing and collection of all such charges. TTI shall maintain all demurrage records and shall bill, collect and retain any and all demurrage charges it may assess to shippers located on the Lines.
- 4.10 Cycle Time. TTI agrees it will encourage shippers located on the Lines to contribute to the efficient movement of CSXT cars between TTI and CSXT. TTI agrees to cooperate with CSXT to maximize the efficient flow of equipment.

PART 5 - GENERAL PROVISIONS - LIABILITY / INDEMNIFICATION

- 5.1 TTI Shall Act As a Separate and Independent Party. The employees, agents, and/or independent contractors of TTI engaged in performing any of the services TTI is to perform pursuant to this Agreement shall be employees, agents, and independent contractors of TTI for all purposes, and under no circumstances shall be deemed to be employees, agents, franchisees or independent contractors of CSXT. In its performance under this Agreement, TTI shall act, for all purposes, as an independent entity and not as an agent for CSXT. CSXT shall have no supervisory power or control over any employees, agents or independent contractors engaged by TTI in connection with TTI's performance hereunder, and all complaints or requested changes in procedures will be transmitted by CSXT only to a designated or responsible officer of TTI. Nothing contained in this Agreement is intended to create a joint venture or partnership or limit or condition TTI's control over its operations or the conduct of its business as a rail carrier, and TTI and its principals assume all risks of financial losses which may result from the operation of the rail services to be provided by TTI hereunder.

5.2 Liability and Indemnification.

- 5.2.1 The terms of the Interchange Agreement(s) set out in Appendix A and, if applicable, any agreement governing CSXT's retained trackage rights over all or a portion of the Lines, shall govern the relationships of the Parties with respect to the activities contemplated therein. In all other respects, the provisions of this Section 5.2 shall apply.
- 5.2.2 Each Party assumes full responsibility for any and all liability to its own directors, officers, employees, or agents on account of injury or death resulting from or sustained in the performance of their respective services under this Agreement.
- 5.2.3 Each Party, with respect to its own employees, accepts full and exclusive liability for the payment of worker's compensation, FELA claims and/or employer's liability insurance premiums with respect to such employees, and for the payment of all taxes, contributions or other payments for unemployment compensation or old age benefits, pensions or annuities now or hereafter imposed upon employers by the government of the United States or by any state or local governmental body with respect to such employees measured by the wages, salaries, compensation or other remuneration paid to such employees, or otherwise, and each Party further agrees to make such payments and to make and file all reports and returns, and to do everything necessary to comply with the laws imposing such taxes, contributions or other payments.

PART 6 - MISCELLANEOUS PROVISIONS

- 6.1 Notices. All notices or other communications given pursuant to this Agreement shall be sent by United States express, certified or registered mail, or by a private courier service providing proof of delivery, addressed as set forth below (or to such other address as either of the Parties hereto may designate by written notice to the other Party). A return receipt shall be conclusive evidence of the fact, date, and time of receipt.

If to CSXT:

CSX Transportation, Inc. 500 Water St., J-801
Jacksonville, Florida 32202 Attention: Director – Joint Facilities

With additional copies to:

Strategic Planning
CSX Transportation, Inc. 500 Water St., J-801
Jacksonville, Florida 32202
Attention: Director – Strategic Planning

and

Real Estate
CSX Transportation, Inc. 500 Water St.
Jacksonville, Florida 32202
Attention: Director Contract Administration, J180

If to TTI:

TransKentucky Transportation Railroad, LLC
205 Winchester St.
Paris, Kentucky 40361

- 6.2 Entire Agreement; Amendment. This Agreement and the Appendices hereto set forth the entire understanding of the Parties hereto with respect to the matters contemplated thereby, and may not be amended except by formal written instrument denominated as an “Amendment” to this Agreement and executed by officers of the Parties with authority to act on each Party’s behalf.
- 6.3 Survival of Terms. The terms and conditions of this Agreement that by their context require or permit survival shall survive Closing (as defined in the Lease and the Purchase and Sale Agreement) whether or not so stated.
- 6.4 Assignment. Pursuant to Section 7.1, TTI may not assign or transfer this Agreement, or any interest herein, to any Prohibited Party without the prior written consent of CSXT, which may be conditioned or withheld in CSXT’s sole discretion. TTI shall require any permitted purchaser, lessee or other transferee that will or may seek to operate the Lines or any portion thereof for railroad purposes to assume TTI’s rights and obligations under this Agreement. In the case of a transfer of only a portion of TTI’s interest in the Lines, TTI shall remain responsible to CSXT for its obligations under this Agreement with respect to the portion of the Line retained by TTI notwithstanding any permitted assignment to and assumption by a transferee. Except as provided in Section 7.1 this Agreement shall inure to and be binding upon the successors and assigns of the parties, including specifically an assignment to a permitted transferee of the Lines.
- 6.5 Beneficiaries. Except as specifically otherwise provided herein, this Agreement is intended for the sole benefit of the Parties hereto. Nothing in this Agreement is intended to or may be construed to give any person, firm, corporation, or other entity, other than the Parties hereto, any rights pursuant to any provision or term hereof.
- 6.6 Governing Law. This Agreement and the rights and obligations accruing hereunder shall be construed and enforced in accordance with the laws of the United States and the state of Florida, exclusive of conflict of law principles.
- 6.7 Appendices. All Appendices referred to in this Agreement are intended to be, and are hereby, specifically made a part of this Agreement.

- 6.8 Waiver. No waiver by either Party of any failure of or refusal by the other Party to comply with any obligation under this Agreement shall be deemed a waiver of any other or subsequent failure or refusal so to comply.
- 6.9 Confidentiality. The terms and conditions of this Agreement are confidential, and neither Party hereto without the prior written consent of the other shall reveal any provisions hereof to any third party (except an employee, attorney or consultant entitled to know the provisions hereof in the ordinary course of the business of the Party), except to the extent required by law or regulation or a valid judicial or administrative order.
- 6.10 Dispute Resolution.
- 6.10.1 Disputes under AAR Rules. Any dispute arising between the Parties involving the interpretation or application of the AAR Car Hire and Car Service Rules, AAR Circular OT-10, or other AAR rules shall be resolved pursuant to the dispute resolution rules of the AAR.
- 6.10.2 All other Disputes. Except as otherwise provided in this Agreement, any disputes arising under this Agreement or as a result of any of the services or covenants created by this Agreement shall be arbitrated pursuant to the Commercial Arbitration Rules of the American Arbitration Association (AAA) before a single arbitrator knowledgeable in transportation law and the railroad industry; provided however, that if the claim exceeds one million dollars (\$1,000,000.00) the dispute shall be heard by a panel of three arbitrators, each of whom shall be knowledgeable in transportation law and the railroad industry. The arbitration shall be held in Jacksonville, Florida. Notwithstanding any applicable AAA rule to the contrary, each Party to the arbitration shall pay the compensation, costs, fees and expenses of its own witnesses, experts and counsel. The compensation, costs and expenses of the arbitrator(s), if any, shall be borne equally by the Parties hereto. The arbitrator(s) shall not have the power to award consequential or punitive damages. The Parties agree that the results of said arbitration shall be binding, and that any award of the arbitrator(s) shall be enforceable in any court of general jurisdiction.
- 6.11 Force Majeure. A Party shall be excused from its performance during a force majeure period if prevented from performing by any of the following force majeure conditions: Act of God, authority of law, severe weather, fire, explosion, labor disputes, embargo, war, threatened or actual act of terrorism, insurrection, derailment, epidemic or like causes beyond its control. The Party claiming force majeure shall notify the other Party as soon as practical upon the beginning and ending of the force majeure period.
- 6.12 Conditions Precedent. This Agreement is contingent upon acquisition of the TTI Stock by MB Rail, TTI's acquisition of the yard facilities pursuant to the Yard Agreement, the required regulatory approval or exemption from the STB ("Regulatory Approval") without conditions unacceptable to either Party in its sole discretion, and the satisfaction by the Parties of all STB conditions which are a prerequisite to implementation of the Transaction

(the “Regulatory Conditions”). The actions by the STB are referred to as the “Regulatory Authorities.” In the event that MB Rail has not acquired the TTI Stock and TTI has not acquired the yard facilities and either (i) the required Regulatory Approval has not been obtained by the Closing Deadline as defined in the Stock Purchase Agreement (the “Closing Deadline”), or (ii) the Parties have not satisfied the Regulatory Conditions by the Closing Deadline, then either Party may give the other notice of immediate termination, and this Agreement shall be void and of no effect.

6.13 Term. This agreement shall terminate upon the applicable Expiration Date.

PART 7 - CHANGE OF CONTROL

7.1 Prohibited Party. TTI shall not sell or lease, grant trackage rights or any other type of operating agreement, or enter a haulage agreement, for all or a substantial portion of the Lines, engage in a transaction subject to the jurisdiction of the STB with respect to the Lines or otherwise engage in a change of control transaction (where control is defined as provided in 49 U.S.C. 10102(3)) (in each case, a “Control Transaction”) with a Prohibited Party. “Control Transaction” shall also include the sale or other transfer of a controlling interest in the TTI Stock. A “Change of Control” means a Control Transaction with a Prohibited Party. A “Prohibited Party” means (a) a Class I railroad or an entity that directly or indirectly owns or controls, is under common control with, or is controlled by a Class I railroad or (b) an entity that is named as an adverse participant in any litigation, arbitration or regulatory matter involving CSXT or an entity that directly or indirectly owns or controls, is under common control with, or is controlled by any such entity. TTI shall provide written notice to CSXT of any proposed Control Transaction no less than forty-five (45) days prior to the submission any request to the STB for approval, exemption, or any other type of approval for the Control Transaction or the intended closing of the Control Transaction, whichever occurs earlier (the “Minimum Notice”). In the event the Control Transaction is with a Prohibited Party, CSXT shall have the option, upon written notice to TTI within thirty (30) days of receipt of TTI’s written notice of the Control Transaction to elect to purchase some or all of the land and railroad assets of TTI together with any related agreements (as CSXT in its sole and absolute discretion may determine) (the “Designated TTI Assets”) at their then net liquidation value as defined by the STB in such manner as to place CSXT in substantially the same position as it was prior to the Commencement Date. In lieu of directly purchasing the Designated TTI Assets, CSXT at its sole option, may designate a third party to which TTI shall sell Designated TTI Assets. TTI shall cooperate in good faith and use its best efforts to effectuate such sale to CSXT or its designee. In lieu of purchasing the Designated TTI Assets, CSXT may, with the agreement of the owner or owners of the entirety of the TTI Stock (and not merely a controlling interest), purchase TTI Stock directly at the then net liquidation value of the Designated TTI Assets described above. The purchase by CSXT or its designee) will take place promptly following CSXT’s written notice of its election to re-acquire the Lines. TTI shall provide written notice (via nationally recognized overnight courier) to:

CSX Transportation, Inc.
500 Water Street
Jacksonville, FL 32202
Attn. Director of Strategic Planning

with a PDF version of said notice to each of christopher.maffett@csx.com, and steven.armbrust@csx.com of an intended Control Transaction no less than fourteen (14) days nor more than twenty-one (21) days in advance of the Minimum Notice and seek CSXT's acknowledgement that a proposed Control Transaction is not with a Prohibited Party without triggering CSXT's rights to purchase described in this Section 7.1 (the "Approval Notice"). CSXT shall endeavor to respond to TTI within five (5) business days of the Approval Notice, provided, however, that a lack of response shall not indicate CSXT's consent and in the event TTI proceeds with a Control Transaction without further inquiry, any determination of whether or not a Control Transaction is with a Prohibited Party will remain subject to the dispute resolution process of this Agreement and / or the Definitive Agreements.

PART 8 - ADMINISTRATIVE MATTERS

- 8.1 Administrative Services. Prior to the Commencement Date, CSXT has provided numerous services, primarily of an administrative nature, on behalf of TTI as a CSXT-affiliated company. Prior to the Commencement Date, CSXT shall cease to provide any and all such services to TTI, including without limitation, management services, employee benefits and pension services, payment services to advance funds for expenses incurred by and to be charged to TTI, car accounting, interline settlements, and ordering materials and fuel to be used by TTI.
- 8.2 Duty to advise FRA. TTI shall provide any required notification to the Federal Railroad Administration ("FRA") pursuant to 49 C.F.R. §213.5(c) and §237.3, and to any other federal or state agency requiring notice of the Transaction, at least 30 days prior to the Commencement Date, and shall indemnify CSXT against any penalties issued for TTI's failure to comply with this Section 8.3
- 8.3 Agreements and Documents. CSXT shall use good faith, commercially reasonable efforts to provide TTI with copies of any applicable agreements, val maps, corporate record books, or other documents relating to TTI in the possession of CSXT. CSXT does not guarantee that all such materials will be identified. If CSXT identifies agreements in its name which should by rights be in TTI's name, TTI shall accept assignment and shall indemnify and hold harmless CSXT from claims by TTI or third parties.
- 8.4 On and after Commencement Date, TTI shall defend, indemnify and hold harmless CSXT, and its parent corporations, subsidiaries and affiliates, and their respective directors, officers, employees and agents from and against any and all liability, cost and expense, including costs of defense and reasonable attorney's and consultant's fees, arising out of

any environmental contamination of the Real Property (as defined in the Yard Agreement) or the Real Property (as defined in the Stock Agreement) as well as associated property, or both, whether occurring prior to the Commencement Date or occurring on and after the Commencement Date.

PART 9 - ADMINISTRATION OF REAL PROPERTY RIGHTS

- 9.1 Administrative Fees. In the event that CSXT exercises any of the Real Property Rights, all administrative fees charged by TTI, including but not limited to right of entry fees, engineering review fees, processing and handling fees, etc., shall be commercially reasonable, but capped at TEN THOUSAND AND 00/100 U.S. DOLLARS (\$10,000.00) per occupancy / application (the “Cap on Administrative Fees”). The Cap on Administrative Fees shall increase by ten percent (10%) every five (5) years following Closing. Notwithstanding the foregoing, the cap on administrative fees for a longitudinal occupancy shall be TWENTY FIVE THOUSAND AND 00/100 U.S. DOLLARS (\$25,000.00) (the “Cap on Longitudinal Administrative Fees”). The Cap on Longitudinal Administrative Fees shall increase by ten percent (10%) every five (5) years following Closing.
- 9.2 Engineering Review. In the event that CSXT exercises any of the Real Property Rights, TTI shall respond to all requests for engineering review, right of entry, track protection, etc., within forty five (45) days of receipt of written request for the same. Failure of TTI to respond within forty five (45) days shall be deemed an approval by TTI, and TTI forfeits its right to collect any administrative fee(s) for the same.

PART 10 - ALL PRIOR AGREEMENTS TERMINATED

- 10.1 The Parties have attempted to identify any prior agreements between them, but for the avoidance of doubt, any contractually binding agreements or arrangements between the Parties that were entered into and effective as of the day before the Commencement Date are hereby terminated.

PART 11 - TIME OF THE ESSENCE

- 11.1 Time is of the essence in the performance of this Agreement.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, each of the Parties has caused this Freight Operating Agreement to be duly executed by its duly authorized representative as of the Commencement Date.

CSX TRANSPORTATION, INC.

By: _____
Name: _____
Title: _____

TRANSKENTUCKY TRANSPORTATION RAILROAD, INC.

By: _____
Name: _____
Title: _____

Appendices

APPENDIX A
Interchange Agreement(s)

APPENDIX B
Revenue Factors

APPENDIX B-1
Annual Adjustment Amount

APPENDIX B-2
Form of Request for Exempt Factor

APPENDIX C
Bilateral Car Hire Rates

APPENDIX D
CSXT Interoperability Requirements for PTC

Appendix A to Freight Operating Agreement
(Interchange Agreement)

Appendix B to Freight Operating Agreement
(Revenue Factors)

TTI shall receive the following revenue factors:

- | | | |
|----|---|----------------|
| 1. | For all carload traffic moving in manifest service: | XXXXXXXXXXXXXX |
| 2. | For coal unit train traffic: | XXXXXXXXXXXXXX |
| 3. | For all carload traffic handled in switching service: | XXXXXXXXXXXXXX |

Appendix B-1 to Freight Operating Agreement

Annual Adjustment Amount

ANNUAL ADJUSTMENT – Terms and Provision

Annual Adjustment: Each of the Factors (other than Exempt Factors) will be adjusted (i.e., increased or decreased) on an annual basis to account for changes in the All-Inclusive Less Fuel With Forecast Error Adjustment - Table AD, (“AII-LF”), as published in the AAR Railroad Cost Indexes (the “Annual Adjustment”). The Annual Adjustment (i.e., the increase or decrease to a given Factor expressed as a percentage) shall be determined by the Annual Adjustment Index. The first Annual Adjustment shall be made on July 1, 2021, and adjustments shall thereafter be made on July 1st of each subsequent calendar year during the Term (the “Annual Adjustment Date”).

The Annual Adjustment Index will be equal to (x) the AII-LF Index for the first quarter of the year of the applicable adjustment divided by (y) the AII-LF Index for the corresponding quarter from the prior year, with both index numbers using the latest AII- LF index base available. The Annual Adjustment Index will be rounded to the third decimal place. In percentage terms, this is to the nearest one-tenth of one percent.

The formula for the Annual Adjustment Index is as follows:

$$\frac{[\text{First quarter (year of Adjustment Date)} / \text{First quarter (year prior to the Adjustment Date)}]}{= \text{Annual Adjustment Index}}$$

On a given Annual Adjustment Date, each Factor (other than Exempt Factors) shall be multiplied by the Annual Adjustment Index. Once adjusted by the Annual Adjustment Index, the newly adjusted Factors will remain fixed until the next Annual Adjustment Date. Should the AAR and Surface Transportation Board (“STB”), rebase/recalculate the AII-LF index during the term of the Freight Operating Agreement, the rebased/recalculated index will be used to calculate the Annual Adjustment Index. If the AII-LF is discontinued, the parties will negotiate in good faith to agree upon a substitute provision. If no agreement is reached within thirty (30) days after negotiations start, then the Rail Cost Adjustment Factor (Unadjusted) published by the STB will be used until a mutually acceptable replacement index is agreed upon. If no agreement is reached within sixty (60) days after negotiations start, then the substitute index provision may be deemed a dispute that may be resolved in accordance with the Dispute Resolution provisions as set forth in the Freight Operating Agreement.

Appendix B-2 to Freight Operating Agreement
(Form of Request for Exempt Factors)

[_____]
CSX Transportation, Inc. 500 Water Street
Jacksonville, FL 32202

Re: Request for Exemption Factor

Pursuant to Section **Error! Reference source not found.** of the Freight Operating Agreement (the "FOA"), dated as of _____, 2021, between CSX Transportation, Inc. ("CSXT") and _____ ("TTI"), TTI hereby requests CSXT to accept an alternative factor to the factor of \$_____ for the commodity _____ under Appendix B of the FOA, as set forth below:

Present Factor: STCC: _____; \$_____/car ([carload][unit train])

Proposed Alternative Factor: \$_____/car ([carload][unit train])

To be applied to: _____ [Rate Authority] ("Exempt Rate Authority")

Termination Date: (1) __/__/ [DATE] or (2) expiration/renewal/reissue of Exempt Rate Authority [choose one]

Commencement Date: __/__/ [DATE]

[On behalf of CSXT, the foregoing exemption shall apply to the Exempt Rate Authority, upon TTI's execution and delivery of this Exemption Request, as of the following date: [_____] ("Exemption Date"). On the Termination Date, Appendix B (as adjusted in accordance with Appendix B-1) will apply to the [traffic][Exempt Rate Authority] to which this exemption applies.

By:

Name: _____

Title: _____

Absent a renewal of this Exemption Request in writing TTI agrees that this exemption shall only apply to traffic moved under the Exempt Rate Authority on or after the "Exemption Date" set forth below, and shall not be deemed to be an amendment to the FOA. On the Termination Date, Appendix B (as adjusted in accordance with Appendix B-1) will apply to the [traffic][Exempt Rate Authority] to which this exemption applies.

ACKNOWLEDGED and AGREED:

[TTI]

By: _____

Name: _____

Title: _____

Date: _____

Appendix C to Freight Operating Agreement
Bilateral Car Hire Rates

LPCT*	LPCT Description	Hour	Mile
102	50 FT RBL BOX	XXX	XXX
103	60 FT RBL BOX	XXX	XXX
104	50 FT RUF BOX	XXX	XXX
105	50 FT CUF BOX	XXX	XXX
107	60 FT BOX	XXX	XXX
108	86 FT BOX	XXX	XXX
109	MECH REFG CARS	XXX	XXX
113	COVERED HOP <4000 CFC	XXX	XXX
114	COVERED HOP 4000+ CFC	XXX	XXX
115	SPCL. BIG COVERED HOPPER	XXX	XXX
120	GONDOLA <52' 70T LO SIDE	XXX	XXX
121	GONDOLA 65 FT	XXX	XXX
122	COVERED COIL GONDOLA	XXX	XXX
123	OPEN COIL GON	XXX	XXX
125	COVERED COIL GONDOLA	XXX	XXX
126	ROTARY GONDOLAS	XXX	XXX
127	BATHTUB COAL GONDOLA	XXX	XXX
128	GEN SERVICE OTH <100 TON	XXX	XXX
129	GEN SERVICE OTH > 100TON	XXX	XXX
131	SPCL SVC OTHER	XXX	XXX
134	BULKHEAD FLATS	XXX	XXX
141	CENTER BEAM FLATS	XXX	XXX
	ALL OTHER	XXX	XXX

* LPCT is the group of AAR car types as shown on p. 2 and 3 of this Appendix C.

Appendix C (cont'd)
Bilateral Car Hire Rates

CSX LPCT/AAR Code Cross Reference:

LPCT Name	AAR Codes
102 50 FT RBL BOX	R000, R100, R110, R200, R210, R300, R310, R400, R410
103 60 FT RBL BOX	R500, R510, R600, R610, R700, R710, R800, R810
104 50 FT RUF BOX	A000, A100-A107, A110-A117, A120-A127, A130-A137, A140-A147, A300- A307, A310-A317, A320-A327, A330-A337, A340-A347, B000, B100-B107, B110-B117, B120-B127, B130-B137, B140-B147, B150-B157, B160-B167, B170-B177, B180-B187, B300-B307, B310-B317, B320-B327, B330-B337, B340-B347, B350-B357, B360-B367, B370-B377, B380-B387
105 50 FT CUF BOX	A200-A207, A210-A217, A220-A227, A230-A237, A240-A247, A400-A407, A410-A417, A420-A427, A430-A437, A440-A447, B200-B207, B210-B217, B220-B227, B230-B237, B240-B247, B250-B257, B260-B267, B270-B277, B280-B287, B400-B407, B410-B417, B420-B427, B430-B437, B440-B447, B450-B457, B460-B467, B470-B477, B480-B487
107 60 FT BOX	A500-A507, A510-A517, A520-A527, A530-A537, A540-A547, A600-A607, A610-A617, A620-A627, A630-A637, A640-A647, B500-B507, B510-B517, B520-B527, B530-B537, B540-B547, B550-B557, B560-B567, B570-B577, B580-B587, B600-B607, B610-B617, B620-B627, B630-B637, B640-B647, B650-B657, B660-B667, B670-B677, B680-B687
108 86 FT BOX	A700-A707, A710-A717, A720-A727, A730-A737, A740-A747, A800-A807, A810-A817, A820-A827, A830-A837, A840-A847, B700-B707, B710-B717, B720-B727, B730-B737, B740-B747, B750-B757, B760-B767, B770-B777, B780-B787, B800-B807, B810-B817, B820-B827, B830-B837, B840-B847, B850-B857, B860-B867, B870-B877, B880-B887

LPCT Name		AAR Codes
109	MECHANICAL REFG. CARS	R120, R150, R160, R170, R180, R190, R220, R250, R260, R270, R280, R290, R320, R350, R360, R370, R380, R390, R420, R450, R460, R470, R480, R490, R520, R550, R560, R570, R580, R590, R620, R650, R660, R661, R670, R680, R690, R720, R750, R760, R770, R780, R790, R820, R850, R860, R870, R880, R890
113	COVERED HOP <4000 CFC	C111, C112, C122, C211, C212, C221, C222, C311, C312, C321, C322, C511, C512, C521, C522, C711, C712, C721, C722
114	COVERED HOP >4000 CFC	C000, C113, C123, C213, C223, C313, C323, C513, C523, C713, C723
115	SPECIAL BIG COV HOP	C114, C124, C214, C224, C314, C324, C414, C424, C514, C524, C714, C724
120	GON <52' <100T HI SIDE	E234, E330, E334, E430, E434, E530, E534, E535, E630, E634, G000, G100- G109, G110-G118, G120-G219, G130-G139, G140-G149, G150-G159, G160-G169, G180-G189, G200-G209, G210-G219, G220-G229, G230-G239, G240-G249, G250-G259, G260-G269, G280-G289, G300-G309, G310-G319, G320-G329, G330-G339, G340-G349, G350-G357, G359, G360-G369, G380-G389, G400-G409, G410-G419, G420-G429, G430-G439, G440-G449, G450-G459, G460-G469, G480-G489, G500-G509, G510-G519, G520-G529, G530-G539, G540-G549, G550-G559, G560-G569, G580-G589
121	GONDOLA 65FT	E632, E704-E707, E710, E714-E717, E720, E724-E727, E730, E734-E737, E740, E744-E747, E750, E754-E757, E760, E764-E767, E780, E784-E787, E790, E794-E797, E800, E804-E807, E810, E814-E817, E820, E824-E827, E830, E834-E837, E840, E844-E847, E850, E854-E857, E860, E864-E867, E880, E884-E887, E890, E894-E897, G600-G689, G700-G789
122	COVERED COIL GONDOLA	E111, E121, E141, E191, E211, E221, E232, E241, E242, E291, E311, E321, E341, E391, E411, E421, E432, E441, E491, E511, E521, E541, E591, E611, E621, E624, E641, E691, E711, E721, E741, E791, E811, E821, E841, E891

123	OPEN COIL GONDOLA	E101, E131, E132, E151, E161, E181, E201, E231, E251, E261, E281, E301, E331, E351, E361, E381, E401, E431, E451, E461, E481, E501, E531, E532, E551, E554-E557, E561, E581, E601, E631, E632, E651, E661, E681, E701, E731, E751, E761, E781, E801, E831, E851, E861, E881
125	OTHER EQUIPPED GON.	E120, E124-E127, E130, E134-E137, E140, E144-E147, E150, E154-E157, E160, E164-E167, E180, E184-E187, E190, E194-E197, E220, E224-E227, E230, E235-E237, E240, E245-E247, E250, E255-E257, E260, E265-E267, E280, E284-E287, E290, E294-E297, E320, E324-E327, E334-E337, E340, E344-E347, E350, E354-E357, E360, E364-E367, E380, E384-E387, E390, E394-E397, E420, E424-E427, E434-E437, E440, E444-E447, E450, E454-E457, E460, E464-E467, E480, E484-E487, E490, E494-E497, E520, E524-E527, E536-E537, E540, E544-E547, E550, E560, E564-E567, E580, E584-E587, E590, E594-E597, E620, E625-E627, E635-E637, E640, E644-E647, E650, E654-E657, E660, E664-E667, E680, E684-E687, E690, E694-E697, L010-L014, L016-L018
126	ROTARY GONDOLAS	E104, E107, E200, E204-E207, E300, E304-E307, E400, E404-E407, J100-J102, J110-J114, J200-J202, J210-J214, J300-J302, J310, J313
127	BATHTUB GONDOLA	COALE000, E100, E105, E106, J311
128	GEN SVC < 100T	G119, H120-G123, H130-H133, H140-H143, H150-H153, H160-H163, H220-H223, H230-H233, H240-H243, H250-H253, H260-H263
129	GEN SVC > 100T	H000, H320-H323, H330-H333, H340-H343, H350-H353, H360-H363
131	SPCL SVC OTHER	G358, K110-K117, K120-K127, K130-K137, K140, K150-K157, K160-K167, K170-K177, K180-K187, K200-K207, K210-K217, K220-K227, K230-K237, K240, K250-K257, K260-K267, K270-K277, K280-K287, K300-K303, K305-K307, K310-K317, K320-K323, K325-K327, K330-K337, K340-K343, K346, K347, K350-K357, K360-K367, K370-K377, K380, K381, K382, K385, K386

134	BULKHEAD FLATS	F000, F151-F156, F241-F246, F251-F256, F341-F346, F351-F356, F441- F446, F451-F456, F541-F546, F551-F556, F741-F746, F751-F756, F841- F846, F851-F856
141	CENTERBEAM FLATS	F181-F186, F281-F286, F381-F386, F481-F486, F581-F586, F781-F786, F881-F886, F493

Appendix D to Freight Operating Agreement

CSX Transportation, Inc. Positive Train Control Tenant Interoperability Requirements

CSX Transportation, Inc. (“CSXT”) is implementing Positive Train Control (“PTC”) on CSXT controlled tracks in accordance with the mandate of 49 U.S.C §20157, as amended, and the implementing regulations of the Federal Railroad Administration (“FRA”) at 49 CFR Part 236, Subpart I.

This document describes the minimum requirements for a tenant railroad, as defined at 49 CFR § 236.1003, to equip its locomotives with a PTC system when operating on or across CSXT PTC-operated track to achieve and maintain interoperability with CSXT’s PTC system.

Necessary PTC interoperability is achieved in two ways. *Technical interoperability* is achieved through the common use of documented interface definitions. *Semantic interoperability* is achieved through the common use of documented system behavioral specifications. To achieve and maintain both technical and semantic PTC interoperability for operation on **CSXT**, TTI (**hereafter “Tenant Railroad”**) is required to:

1. Subscribe to the AAR/ASLRRA/APTA Positive Train Control Interchange Agreement binding the **Tenant Railroad** to industry interoperability standards. The AAR’s Regional, Short Line and Terminal Working Group includes all participants of the Agreement who are not Class I railroads or passenger railroads.
2. Install and implement a PTC system (or its components, as necessary) which conforms to the Interoperable Train Control (ITC) standards and requirements published in the AAR Manual of Standards and Recommended Practices – Section K documents related to the implementation of positive train control. These documents are available from the AAR. Relevant standards and recommended practices are located in the following sections of the Manual:
 - Section K-I – Railway Electronics Systems Architecture and Concepts of Operations
 - Section K-II – Locomotive Electronics and Train Consist System Architecture
 - Section K-III – Wayside Electronics and Mobile Worker Communications Architecture
 - Section K-IV – Office Architecture and Railroad Electronics Messaging
 - Section K-V – Electronics Environmental Requirements and Systems Management
 - Section K-VI – Railway Data Management and Communications

3. Implement an ITC-compliant PTC system that does not adversely affect **CSXT's** railroad operations or **CSXT's** PTC System Certification.
4. Federate an ITC-compliant message system (ITCM) for interoperable messaging and communications. Federated connection of ITC-compliant back offices will have the effect of joining the underlying communications systems that support the ITCM by allowing the free-flow of all ITC-compliant messages between back offices. Specifically, federation enables any ITC back office to pass traffic from any 220 MHz base station, locomotive or wayside as well as other railroad-specific communications networks, e.g. cellular, IEEE 802.11, etc. **CSXT** and **the Tenant Railroad** will establish bi- or multi-lateral testing protocols, security standards, and related service-level requirements. The primary I-ETMS traffic that will be exchanged between railroads via federated links will be locomotive-BOS traffic and wayside-locomotive traffic.
5. Institute processes to ensure **Tenant Railroad** data security of employee credentials for PTC system initialization functionality and secure **Tenant Railroad** locomotive identification and messaging.
6. Maintain at a designated office on its railroad all records required by 49 CFR § 236.1037 which demonstrate **Tenant Railroad** has:
 - Conducted appropriate **Tenant Railroad** lab testing to validate and verify the **Tenant Railroad** PTC system installation, operation and functionality are interoperable with I-ETMS prior to field interoperability tests with **CSXT**. Records of such tests shall be made available by **Tenant Railroad** to FRA upon request.
 - Participated in appropriate field interoperability testing according to a FRA-approved field test plan to validate and verify **Tenant Railroad** PTC system is functionally operable and interoperable for PTC service on the **CSXT** rail network. **CSXT** shall provide records of interoperability testing to FRA, as required.
 - Properly installed all PTC equipment in accordance with the procedures required by 49 CFR § 236.1039, "Operations and Maintenance Manual (OMM)." Records of locomotive installation checkout procedures and the OMM shall be made available by **Tenant Railroad** to FRA upon request.
 - Delivered all necessary training for train crews required by 49 CFR § 236.1041, "Training and qualification program, general," § 236.1043, "Task analysis and basic requirements," and § 236.1047, "Training specific to locomotive engineers and other operating personnel." Records of training, exams and training plans shall be made available by **Tenant Railroad** to FRA upon request.
 - Ensured each contractor providing services relating to the testing,

maintenance, or operation of **Tenant Railroad** PTC system shall maintain at a designated office training records required under § 236.1039(b). Records of training, exams and training plans shall be made available by **Tenant Railroad** to FRA upon request.

7. Submit to **CSXT** evidence of interoperability that is satisfactory to **CSXT** and that **CSXT** may use to provide assurances to FRA that PTC interoperability has been achieved. **Tenant Railroad** shall mark and identify any information that **Tenant Railroad** believes contains information not subject to disclosure in accordance with 49 CFR § 209.11 when submitting the information to **CSXT**.
8. Comply with all any and all applicable FRA conditions to **CSXT's** FRA-approved PTCSP and PTC System Certification.
9. Comply with any and all pertinent sections of **CSXT's** FRA-approved PTCSP and operating rules.
10. Provide **CSXT** with the **Tenant Railroad's** PTC system design, installation, test, operation, and maintenance procedures necessary for **CSXT** to achieve and maintain PTC System Certification for its PTC system.
11. In the event of errors or malfunctions of the system in operation on **CSXT**, the **Tenant Railroad** shall comply with the requirements of 49 CFR §236.1023.
12. Operate consistent with 49 U.S.C. §20157(j) or 49 CFR §236.1029, PTC system use and failures, applicable, in the event of an en route failure of **Tenant Railroad's** PTC system.
13. Provide the Type Approval number for **Tenant Railroad's** PTC System in accordance with 49 CFR §236.1009(b) prior to operation of **Tenant Railroad's** PTC system on **CSXT**.
14. Comply with all configuration management and revision control measures in 49 CFR §§236.1015(d)(9) and .1023(c).
15. Establish and maintain a PTC Product Vendor List (PTCPVL) for **Tenant Railroad** equipment in accordance with 49 CFR §236.1023(a).
16. Maintain a complete description of Tenant Railroad's operations on CSXT.
17. Comply with all pertinent parts of the PTC regulations in 49 CFR Part 236, Subpart I and provide any and all pertinent documents showing **Tenant Railroad** is interoperable with CSXT.
18. **Tenant Railroad** must allow **CSXT** to periodically review documents and material that applies to **Tenant Railroad** operations on CSXT.

CSXT must be able to provide assurances to FRA that interoperability has been achieved before allowing the Tenant Railroad to access the track segments upon which I-ETMS is implemented by requiring the **Tenant Railroad** to provide its written assurances of regulatory compliance and PTC operations readiness to **CSXT** and the FRA and to demonstrate interoperability through joint lab and field testing. Prior to operation of a system other than I-ETMS on **CSXT**, the **Tenant Railroad** shall first provide written acknowledgment of an FRA-certified system ready for interoperable revenue operations that fulfills all the requirements of 49 CFR Part 236, Subpart I.

In accordance with FRA's conditional system certification of **CSXT**'s PTC system dated September 26, 2016, if **CSXT** has actual or constructive knowledge or information that a tenant railroad is not operating equipment with an onboard PTC apparatus interoperable with the host I-ETMS PTC system, **CSXT** shall not allow the **Tenant Railroad** to operate on the associated host track segments except as permitted by **CSXT** as described in its PTCIP. **CSXT** has the right of refusal of non-equipped trains, 49 CFR §§ 236.1005(g), 236.1006, and 236.1029 notwithstanding.