

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

**STB Docket No. FD 36447
LAKE PROVIDENCE PORT COMMISSION—FEEDER LINE
APPLICATION—LINE OF DELTA SOUTHERN RAILROAD
LOCATED IN EAST CARROLL AND
MADISON PARISHES, LOUISIANA**

**LAKE PROVIDENCE PORT COMMISSION'S
MOTION TO SUPPLEMENT
LAKE PROVIDENCE PORT COMMISSION'S
FEEDER LINE APPLICATION WITH
NEWLY DISCOVERED EVIDENCE**

Lake Providence Port Commission (“LPPC”), by and through its counsel of record, files this Motion to Supplement its Feeder Line Application with newly discovered evidence that is responsive to the Board’s directive that LPPC’s “amended application must include all historical information known or reasonable available to LPPC in support of its case-in-chief for a Board-ordered sale.”¹

The new evidence is a copy of the Management Agreement, dated June 22, 2016, that was entered into by and between Continental Rail, LLC and

¹ *Lake Providence Port Comm’n—Feeder Line Appl.—Line of Delta S. R.R. Located in E. Carroll & Madison Parishes, La.*, FD 36447, slip op. at 8(STB filed August 23, 2022).

West Branch Intermediate Holdings, LLC. The Management Agreement was filed in a case that is currently pending before the Court of Chancery of the State of Delaware as Case No. 2022-0040, *Continental Rail, LLC v. West Branch Intermediate Holdings, LLC*. The Management Agreement is attached thereto as EXHIBIT B. This document was first discovered by counsel on January 24, 2023.

The new evidence reflects the relationship between Continental Rail as the Manager of railroad operations, West Branch as the Buyer of Delta Southern Railroad's stock from William P. Wainright and his wife Linda L. Wainright, and Golden Gate Capital's ("GGC") ultimate control. See SCHEDULE III SERVICES at pages III-1 through III-3. In addition, at EXHIBIT B RAILROAD, pages B-1 and B-2, it reflects relevant information regarding the independent nature of DSRR's operations of the Sterlington Division and the Lake Providence Division.

Respectfully submitted,

/s/ Richard H. Streeter

Richard H. Streeter
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Washington, D.C. 20016
Counsel for the
Lake Providence Port Commission

Dated: January 25, 2023

Certificate of Service

I, Richard H. Streeter, hereby certify that I, this 25th day of January, 2023, have served a true copy of the foregoing reply of Lake Providence Port Commission on John M. Scheib, counsel for Delta Southern Railroad, Inc., via email at Scheib@gentrylocke.com.

EXECUTION VERSION

MANAGEMENT AGREEMENT

THIS MANAGEMENT AGREEMENT (this "Agreement"), dated June 22, 2015 (the "Effective Date"), is entered into by and between Continental Rail LLC, a Florida limited liability company ("Manager"), West Branch Intermediate Holdings, LLC, a Delaware limited liability company ("Buyer"), and the individuals identified as the "Key Executives" on the signature page hereto. For purposes hereof, any employees of Manager who subsequently execute and deliver a joinder to this Agreement in the form of Exhibit A attached hereto shall also be deemed "Key Executives" for all purposes hereof.

RECITALS

A. WHEREAS, Buyer and William P. Wainright and wife Linda L. Wainright, individuals residing in the State of Louisiana ("Sellers"), have entered into that certain Stock Purchase Agreement, dated as of the Effective Date (the "Purchase Agreement"), pursuant to which Sellers are selling to Buyer all of the issued and outstanding shares of common stock of Delta Southern Railroad, Inc., a Louisiana corporation (the "Company");

B. WHEREAS, the Company owns a short-line railroad operating in Louisiana and Arkansas, as more fully identified on Exhibit B attached hereto, together with related assets (collectively, the "Railroad");

C. WHEREAS, Manager is engaged in the diligence, acquisition, management, operation, maintenance and leasing of railroads, rail leasing and maintenance businesses and related assets (the "Industry");

D. WHEREAS, each of the Key Executives is a full-time employee of Manager devoting his or her entire business time, attention and energies exclusively thereto; and

E. WHEREAS, Buyer desires to contract with Manager for the provision of management, operation and maintenance services for the Railroad as well as any other Industry assets acquired by Buyer, directly or indirectly, during the Term (as defined below).

NOW, THEREFORE, in consideration of the foregoing and the mutual covenants, conditions and provisions contained herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereby agree as follows:

**ARTICLE 1.
DEFINITIONS**

Section 1.01. For purposes of this Agreement, the following terms shall have the meanings specified or referred to in this Section 1.01:

"Adjusted EBITDA" means, for any period, (a) EBITDA *plus* (b) solely to the extent deducted in the calculation of EBITDA for such period, without duplication, (i) any non-cash impairment charges related solely to long-lived assets, (ii) any expenses related solely to the acquisition of additional businesses or the acquisition of a material portion of the assets thereof and (iii) the amount of the Management Fee paid or accrued in respect of such period *minus*

(c) solely to the extent included in the calculation of EBITDA for such period, without duplication, (i) any non-cash gains, including those resulting from any write-up of assets or investments, (ii) any gains from extraordinary items (as defined in accordance with GAAP), (iii) any non-cash income related solely to adjustments made as a result of the application of purchase accounting (as measured in accordance with GAAP), (iv) any gains resulting from the sale or disposition of any properties or assets outside the ordinary course of business or any equity interests and (v) any credit or refund from taxes based on income or franchise taxes in the nature of income tax.

“Affiliate” means, with respect to any Person, any Person which, directly or indirectly through one or more intermediaries, controls, is controlled by, or is under common control with, such Person. As used in this definition, the term “control” (including the terms “controlled by” and “under common control with”) means the possession, directly or indirectly, of the power to direct the management policies of such Person, whether through the voting power of outstanding securities, by contract or otherwise.

“Agreement” has the meaning set forth in the preamble to this Agreement.

“ANGUS Chemical Company” means Aruba Topco, L.P., a Delaware limited partnership, or any of its Subsidiaries.

“Board” means the Board of Managers of Buyer.

“Business Day” means any day of the year on which national banking institutions in the state in which the Buyer’s chief executive office is located are opened to the public for conducting business and are not required or authorized to close.

“Buyer” has the meaning set forth in the preamble to this Agreement.

“Buyer Marks” means (a) any trademark, service mark, trade name, service name, brand name, slogan, logo, Internet domain name, corporate name and other identifier of source or goodwill to the extent including the names of Buyer and/or any of its Affiliates and/or the words “Golden Gate Capital” and (b) any and all other derivatives of the names of Buyer and/or any of its Affiliates and/or the words “Golden Gate Capital”.

“Company” has the meaning set forth in the recitals to this Agreement.

“Continental Marks” means (a) any trademark, service mark, trade name, service name, brand name, slogan, logo, Internet domain name, corporate name and other identifier of source or goodwill to the extent including the names of Manager and/or any of its Affiliates and/or the words “Continental” and (b) any and all other derivatives of the names of Manager and/or any of its Affiliates and/or the words “Continental”.

“EBITDA” means, for any period, without duplication, (a) net income *plus* (b) solely to the extent deducted in the calculation of net income for such period, (i) interest expense, (ii) income taxes and (iii) depreciation and amortization expense.

“Effective Date” has the meaning set forth in the preamble to this Agreement.

"Exchange Act" means the Securities Exchange Act of 1934, as amended, and applicable rules and regulations thereunder, and any successor to such statute, rules or regulations.

"Family Group" means an individual's spouse, descendants (whether by birth or adoption), parents, siblings or dependents and any trust solely for the benefit of such individual or such individual's spouse, descendants (whether by birth or adoption), parents, siblings or dependents.

"GAAP" means U.S. generally accepted accounting principles as promulgated in effect from time to time, consistently applied.

"Golden Gate Capital" or "GGC" means investment funds Affiliated with Golden Gate Private Equity, Inc., a Delaware corporation.

"Governmental Authority" means any nation or government, any state, provincial or other political subdivision thereof, any entity exercising executive, legislative, judicial, quasi-judicial, regulatory or administration functions of or pertaining to government, including any government authority, agency, department, board, commission or instrumentality of the United States, any foreign government, any State of the United States or any political subdivision thereof, and any court, tribunal or arbitrator(s) of competent jurisdiction.

"Industry" has the meaning set forth in the recitals to this Agreement.

"Key Executives" has the meaning set forth in the preamble to this Agreement.

"Law" means any treaty, law, common law, statute, regulation, code, rule, ordinance, circular, Order, directive, judgment, notice or other binding action or requirement of a Governmental Authority.

"Loss" means any loss, liability, demand, claim, action, cause of action, cost, damage, deficiency, tax, penalty, fine, fee or expense, whether or not arising out of third-party claims (including interest, penalties, reasonable attorneys' fees and expenses, court costs and all amounts paid in investigation, defense or settlement of any of the foregoing).

"Manager" has the meaning set forth in the preamble to this Agreement.

"Order" means any order, award, decision, injunction, judgment, ruling, decree, charge, writ, subpoena or verdict entered, issued, made or rendered by any Governmental Authority, arbitrator or mediator.

"Participate" (and the correlative terms "Participating" and "Participation") includes any direct or indirect ownership interest in any enterprise or participation in the management of such enterprise, whether as an officer, director, employee, partner, sole proprietor, agent, representative, independent contractor, consultant, executive, franchisor, franchisee, creditor, owner or otherwise; provided that the passive ownership by a Key Executive of not more than two percent (2%) of the outstanding shares of any class of capital stock of a corporation which is publicly traded on a national securities exchange will not be deemed to be Participating in such

corporation, so long as such Key Executive is not otherwise Participating in the business of such corporation.

“Person” means an individual, a partnership, a corporation, a limited liability company, an association, a trust, a joint stock company, a joint venture, an unincorporated organization, any other business entity or a Governmental Authority.

“Purchase Agreement” has the meaning set forth in the recitals to this Agreement.

“Railroad” has the meaning set forth in the recitals to this Agreement.

“Sale of the Company” means a sale or disposition of all or substantially all of the Buyer’s assets determined on a consolidated basis or a sale or disposition of a majority of Buyer’s outstanding equity interests, whether by merger, recapitalization, consolidation, reorganization, combination, contribution or otherwise, in either case, to (a) a Person or group (within the meaning of Section 13(d)(3) of the Exchange Act) other than Golden Gate Capital or one or more Affiliates thereof or (b) ANGUS Chemical Company.

“Securities Act” means the Securities Act of 1933, as amended, and applicable rules and regulations thereunder, and any successor to such statute, rules or regulations. Any reference herein to a specific section, rule or regulation of the Securities Act shall be deemed to include any corresponding provisions of future Law.

“Sellers” has the meaning set forth in the recitals to this Agreement.

“Services” has the meaning set forth in Section 3.01 below.

“Subsidiary” means, with respect to any Person, any corporation, partnership, limited liability company, association or other business entity of which (a) if a corporation, a majority of the total voting power of shares of stock entitled (without regard to the occurrence of any contingency) to vote in the election of directors, managers or trustees thereof is at the time owned or controlled, directly or indirectly, by that Person or one or more of the other Subsidiaries of that Person or a combination thereof or (b) if a partnership, limited liability company, association or other business entity, a majority of the partnership or other similar ownership interest thereof is at the time owned or controlled, directly or indirectly, by any Person or one or more Subsidiaries of that Person or a combination thereof. For purposes hereof, a Person or Persons shall be deemed to have a majority ownership interest in a partnership, limited liability company, association or other business entity if such Person or Persons shall be allocated a majority of partnership, limited liability company, association or other business entity gains or losses or shall be or control the managing director or general partner of such partnership, limited liability company, association or other business entity.

“Term” means the period commencing on the Effective Date and ending upon the termination of this Agreement in accordance with Article 5 below.

ARTICLE 2. REPRESENTATIONS AND WARRANTIES; COVENANTS

Section 2.01. Representations and Warranties of Manager. Manager represents and warrants to Buyer that (a) this Agreement constitutes the valid and binding obligation of Manager, enforceable against Manager in accordance with its terms, and no further action or approval, corporate or otherwise, is required to constitute this Agreement as a valid and binding obligation of Manager, (b) the execution, delivery and performance of, and compliance with, this Agreement does not and will not violate or conflict with or constitute a default under any Law or Order or agreement, instrument or writing of any nature to which Manager is a party or by which Manager or its assets or properties may be bound, (c) each of the Key Executives is a full-time employee of Manager devoting his or her entire business time, attention and energies exclusively thereto and (d) set forth on Schedule I attached hereto is a list of the holders of all of the outstanding equity interests of Manager and their respective ownership percentages.

Section 2.02. Representations and Warranties of Buyer. Buyer represents and warrants to Manager that (a) this Agreement constitutes the valid and binding obligation of Buyer, enforceable against Buyer in accordance with its terms, and no further action or approval, corporate or otherwise, is required to constitute this Agreement as a valid and binding obligation of Buyer and (b) the execution, delivery and performance of, and compliance with, this Agreement does not and will not violate or conflict with or constitute a default under any Law or Order or agreement, instrument or writing of any nature to which Buyer is a party or by which Buyer or its assets or properties may be bound.

Section 2.03. Representations and Warranties of the Key Executives. Each of the Key Executives represents and warrants to Buyer that (a) he or she is a full-time employee of Manager devoting his or her entire business time, attention and energies exclusively thereto and (b) except as set forth on Schedule II attached hereto, he or she is not Participating in any enterprise within the Industry.

Section 2.04. Covenants of Manager. From and after the Effective Date, Manager shall promptly notify Buyer of any issuances, redemptions, repurchases or other transactions involving the equity interests of Manager and provide Buyer with an updated copy of Schedule I attached hereto. Notwithstanding anything to the contrary contained herein, Manager covenants and agrees that (a) neither Mr. Tim Hart nor any member of his Family Group shall be engaged, whether directly or indirectly, in the provision of the Services hereunder and (b) neither Manager nor any of its Affiliates shall issue, whether directly or indirectly, any of their respective equity interests to Mr. Hart or any member of his Family Group; provided that Buyer agrees and acknowledges that Mr. Tim Hart is currently the beneficial owner of certain equity interests of Manager issued to TBG Holdings Corp., a Florida corporation ("TBG"), as set forth on Schedule I attached hereto, and that nothing in this Section 2.04 shall prevent Manager from issuing additional equity interests to TBG on a *pro rata* basis in accordance with the ownership percentages set forth on Schedule I attached hereto in connection with a merger, consolidation, unit split, unit dividend, combination of units or other recapitalization or reorganization of Manager or any successor thereto.

ARTICLE 3. SERVICES

Section 3.01. Scope of Services; Time and Attention. During the Term, (a) Manager shall provide, or cause to be provided, to Buyer (or its designees) all management, operation and maintenance services necessary or advisable for the Railroad, including without limitation (i) those services identified on Schedule III attached hereto, (ii) any services that are ancillary or incidental to the foregoing and (iii) any other services reasonably requested by Buyer upon written notice to Manager delivered in accordance with Section 8.05 hereof at any time during the Term (collectively, the “Services”) (and Manager shall not provide any of the Services or any other services to any other Person within the Industry or otherwise) and (b) each of the Key Executives, for so long as he or she remains a full-time employee of Manager, shall devote his or her entire business time, attention and energies exclusively to the provision of the Services on behalf of Manager hereunder.

Section 3.02. Standard of Performance. Manager shall provide the Services in all cases in a professional and workmanlike manner appropriate for the safe, efficient and productive operation of the Railroad. Without limiting the foregoing, the Services shall be performed with at least the same degree of care, skill and diligence with which such Services would be provided by a reasonably prudent manager, including with respect to the quality and timeliness of such Services. Manager shall provide the Services pursuant to this Agreement in a manner that complies with all applicable Laws and Orders that are applicable to Manager’s performance pursuant to this Agreement or to the Services. Manager at all times shall maintain sufficient resources to perform its obligations pursuant to this Agreement.

Section 3.03. Delegation of Services. Manager agrees that it may only delegate or subcontract its responsibilities under this Agreement to a Person reasonably acceptable to Buyer. Manager acknowledges that notwithstanding any delegation or subcontracting of its responsibilities under this Agreement, it shall remain responsible for the provision of the Services and the third party’s compliance with the standard of performance set forth herein.

Section 3.04. Future Acquisitions. During the Term, Manager agrees to fully cooperate with Buyer and its Affiliates in identifying, marketing (through the use of the Buyer Marks) and bidding on any and all transactions within the Industry and to keep Buyer reasonably informed regarding the terms and status thereof; provided that Manager shall not have the right to exploit or otherwise use any of the Buyer Marks without the prior written consent of Buyer. Without limiting the foregoing, neither Manager nor any of the Key Executives shall, without the prior written consent of Buyer, engage in any marketing activities within the Industry using the Continental Marks. If requested by Buyer upon written notice to Manager delivered in accordance with Section 8.05 hereof, without further consideration apart from that set forth in Article 4 below, Manager agrees to also provide the Services, on the terms and conditions set forth herein, *mutatis mutandis*, in respect of any other Industry assets acquired by Buyer, directly or indirectly, during the Term. For the avoidance of doubt, all such additional services shall likewise be deemed to be included within the definition of “Services” for all purposes hereof.

Section 3.05. Independent Contractor. The parties agree and acknowledge that Manager shall provide all Services hereunder as an independent contractor, and that neither Buyer, on the

one hand, nor Manager nor any of the Key Executives, on the other hand, is an employee, partner or joint venturer of the other. Under no circumstances shall any of the Key Executives of Manager be deemed to be employees of Buyer for any purpose. Neither Buyer, on the one hand, nor Manager or any of the Key Executives, on the other hand, shall have the right to bind the other to any agreement with a third party nor to represent itself as a partner or joint venturer or employee of the other.

ARTICLE 4. CONSIDERATION

Section 4.01. Management Fee. During the Term, Manager shall be entitled to receive a fee each fiscal year (or a *pro rata* portion thereof in respect of any partial fiscal years) in an amount equal to the greater of (a) Two Hundred and Fifty Thousand Dollars (\$250,000) and (b) six percent (6.0%) of Adjusted EBITDA for Buyer and its Subsidiaries for such fiscal year (the "Management Fee"); provided that in no event shall the Management Fee exceed Two Million Dollars (\$2,000,000) in the aggregate. The Management Fee will be paid by Buyer (or its designees) in advance in quarterly installments of Sixty-Two Thousand Five Hundred Dollars (\$62,500) each (or a *pro rata* portion thereof in respect of any partial fiscal quarters) and, if applicable, will be subject to true up promptly following the determination of Adjusted EBITDA based on the Buyer's consolidated financial statements for the relevant fiscal year.

Section 4.02. Transaction Expenses. In addition to the Management Fee, Buyer (or its designees) shall reimburse any and all reasonable, documented and out-of-pocket fees and expenses incurred by Manager in connection with performing Services in the form of diligence or consummation of add-on acquisitions of additional existing business within the Industry (collectively, "Transaction Expenses"); provided that such fees and expenses shall not exceed such amounts as are designated by Buyer in writing from time to time in its sole discretion. For the avoidance of doubt, this Section 4.02 shall not be construed so as to require Buyer (or its designees) to reimburse any fees and expenses incurred by Manager in connection with performing any Services hereunder other than Transaction Expenses.

Section 4.03. Equity Incentive Arrangements. As further consideration for Services to be provided, Buyer shall issue to Manager and the Key Executives non-voting limited liability company units (the "Incentive Units") intended to be "profits interests" under Internal Revenue Service ("IRS") Revenue Procedure 93-27 and IRS Revenue Procedure 2001-43 with respect to future appreciation (but not return of capital) on up to Fifty Million Dollars (\$50,000,000) in equity investments by Golden Gate Capital into Buyer, which equity shall accrue yield at a rate of eight percent (8%) annually (compounded monthly) and which yield shall be satisfied prior to participation of any such Incentive Units, as follows:

- An initial ten percent (10%) in the aggregate of future appreciation in excess of a one times (1x) return thereon and satisfaction of all such yield
- An additional ten percent (10%) in the aggregate of future appreciation in excess of a two times (2x) return thereon (i.e., a total of 20%) and satisfaction of all such yield

- An additional five percent (5%) in the aggregate of future appreciation in excess of a three times (3x) return thereon (i.e., a total of 25%) and satisfaction of all such yield
- An additional five percent (5%) in the aggregate of future appreciation in excess of a five times (5x) return thereon (i.e., a total of 30%) and satisfaction of all such yield

The Incentive Units will be issued pursuant to the terms and conditions of the Amended and Restated Limited Liability Company Agreement of the Buyer attached hereto as Exhibit C and the Forms of Incentive Equity Agreements attached hereto as Exhibit D.

ARTICLE 5. TERM AND TERMINATION

Section 5.01. Term and Termination. This Agreement shall be effective as of the Effective Date and shall continue in full force and effect until terminated as provided in this Section 5.01. This Agreement may be terminated (a) by either Manager or Buyer at any time upon written notice to the other party delivered in accordance with Section 8.05 hereof if the other party (or, in the case of a termination by Buyer, any of the Key Executives) materially breaches any provision of this Agreement and either the breach cannot be cured or, if the breach can be cured, it is not cured by the breaching party within thirty (30) days after the breaching party's receipt of written notice of such breach or (b) by Buyer immediately upon written notice to Manager delivered in accordance with Section 8.05 hereof (i) if Manager or any Key Executive has become disqualified or prohibited by Law or Order from providing any of the Services, (ii) Manager or any Key Executive has committed, been convicted of or pled guilty or *nolo contendere* to any felony or any other act or omission involving dishonesty, disloyalty, malfeasance, theft, embezzlement or fraud with respect to Buyer or any of its Subsidiaries or Affiliates or any of their customers, suppliers or any other material business relations or the Services, or any other crime involving moral turpitude, (iii) Manager or any Key Executive has been guilty of gross negligence or gross misconduct in the course of providing the Services, (iv) Manager or any Key Executive has engaged in any conduct which has brought or could reasonably be expected to bring Manager or Buyer or any of its Subsidiaries or Affiliates into public disgrace or material disrepute or material economic harm, (v) Manager has failed to meet the financial goals and targets set forth on Schedule IV attached hereto or any other budget or financial goal or target set in the reasonable, good faith discretion of Buyer or any of its Subsidiaries or Affiliates, (vi) two (2) or more of the Key Executives cease to be employed by Manager on a full-time basis (or if notwithstanding their employment, cease to devote their entire business time, attention and energies exclusively to the provision of the Services on behalf of Manager hereunder) or (vii) in the event of the consummation of a Sale of the Company.

Section 5.02. Effect of Termination. In the event of the termination of this Agreement pursuant to this Article 5, all obligations of the parties hereunder shall terminate, except for obligations set forth in this Article 5 and Article 6 through Article 8 hereof; provided, however, that nothing herein shall relieve any party from liability for the breach of any of its other covenants or agreements set forth in this Agreement prior to the date of such termination.

ARTICLE 6. INDEMNIFICATION

Section 6.01. Indemnification by Manager. Manager shall indemnify Buyer and its Affiliates (including the Company and each of its Subsidiaries) and each of their respective direct and indirect equity holders, officers, directors, managers, employees, agents, representatives, Affiliates, successors and permitted assigns (collectively, the “Buyer Indemnified Parties”) and hold each of them harmless from and against and pay on behalf of or reimburse any such Buyer Indemnified Party in respect of any Losses incurred by such Buyer Indemnified Party arising out of, relating to or resulting from, any of the following (or the assertion thereof) (a) any proceeding brought by any third party to the extent related to the provision of the Services hereunder (except if any such proceeding involves claims of bad faith or willful misconduct on the part of Buyer) or (b) any breach of any of Manager’s representations, warranties or covenants set forth in this Agreement. Any indemnification obligations of Manager pursuant to this Section 6.01 shall be effected by wire transfer of immediately available funds to an account designated in writing by the applicable Buyer Indemnified Party. Notwithstanding the foregoing, Buyer may instead elect to satisfy any such indemnification obligations by setting off the amount of such indemnification obligations against any amounts payable by Buyer to Manager from time to time pursuant to Section 4.01 above.

Section 6.02. Indemnification by the Key Executives. Each of the Key Executives shall indemnify the Buyer Indemnified Parties and hold each of them harmless from and against and pay on behalf of or reimburse any such Buyer Indemnified Party in respect of any Losses incurred by such Buyer Indemnified Party arising out of, relating to or resulting from any breach of any of such Key Executive’s representations, warranties or covenants set forth in this Agreement (or the assertion thereof). Any indemnification obligation of a Key Executive pursuant to this Section 6.02 shall be effected by wire transfer of immediately available funds to an account designated in writing by the applicable Buyer Indemnified Party. Notwithstanding the foregoing, Buyer may instead elect to satisfy any such indemnification obligations by causing the cancellation and/or forfeiture of any equity interests issued to such Key Executive pursuant to Section 4.03 above having an aggregate fair market value (or, at the election of Buyer, liquidation value) as of the date of payment equal to the indemnification obligation of such Key Executive.

ARTICLE 7. INSURANCE

Section 7.01. Scope of Insurance. From and after the Effective Date, Manager shall place and maintain in effect those certain insurance coverages with respective limits as specified on Schedule V attached hereto and incorporated herein by reference. Buyer shall be named as an additional insured under Manager’s general liability and any applicable umbrella/excess liability coverage. The insurance coverage to be obtained and maintained by Manager shall be primary and shall apply to the extent of Manager’s indemnity obligations under Article 6; provided that the coverage amounts shall not constitute monetary limits on Manager’s contractual indemnity and other liability obligations.

Section 7.02. Delegation of Services. If Manager should delegate or subcontract all or any part of the Services in accordance with Section 3.03 above, all such delegates and subcontractors shall carry all insurance coverage required for Manager as described on Schedule V attached hereto.

ARTICLE 8. MISCELLANEOUS

Section 8.01. Entire Agreement and Amendment. This Agreement, the Schedules and Exhibits attached hereto and the other documents referred to herein contain the entire agreement between the parties with respect to the matters described herein and are a completely integrated and exclusive statement as to the terms thereof and supersede all previous agreements regarding the same issues. Neither this Agreement nor the Schedules and Exhibits attached hereto may be altered or modified except by a writing signed by the parties hereto.

Section 8.02. Headings. All Article and Section headings contained herein are for reference purposes only and shall not affect in any way the meaning or interpretation of this Agreement or the Schedules and Exhibits attached hereto.

Section 8.03. Counterparts/Electronic Signature. This Agreement may be executed simultaneously 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. Delivery of signatures by facsimile, .pdf document or other electronic means shall be as effective as delivery of original signatures.

Section 8.04. Construction. The parties acknowledge they have had the opportunity to have this Agreement reviewed by their respective attorneys, and that they have an equal bargaining position in this transaction. No rule of construction that would cause any ambiguity in any provision to be construed against the drafter of this document shall be operative against any party. Each accounting term not otherwise defined in this Agreement shall have the meaning assigned to it in accordance with GAAP.

Section 8.05. Notices. All notices and other communications required or permitted under this Agreement which are addressed as provided in this Section 8.05 (a) if delivered personally against proper receipt or by confirmed facsimile transmission or email, shall be effective upon delivery, and (b) if delivered (i) by certified or registered mail with postage prepaid shall be effective five (5) Business Days or (ii) by Federal Express or similar courier service with courier fees paid by the sender, shall be effective two (2) Business Days following the date when mailed or couriered, as the case may be. Notices, demands and communications to the parties hereto will, unless another address is specified in writing, be sent to the address indicated below:

If to Manager, to:

Continental Rail LLC
2929 E. Commercial Blvd., Suite PH-D
Fort Lauderdale, FL 33308
Attention: John Marino, Jr.

Fax: +1 (954) 202-9777
Email: john.marino@continentalrailcorp.com

If to Buyer, to:

West Branch Intermediate Holdings, LLC
c/o Golden Gate Private Equity, Inc.
One Embarcadero Center, 39th Floor
San Francisco, CA 94111
Attention: Rajeev Amara; Stephen Oetgen
Fax: +1 (415) 983-2701
Email: ramara@goldengatecap.com; soetgen@goldengatecap.com

If to any of the Key Executives, to:

Key Executive's home address kept on file at Manager's office

Section 8.06. Confidentiality. Each party receiving Confidential Information from Manager or Buyer, whether received previously or hereafter, shall maintain the Confidential Information in strict secrecy and confidence and shall not use such information for any purpose other than as contemplated by this Agreement. For purposes hereof, "Confidential Information" means information about the disclosing party's business plans, sales, finances, assets, liabilities, pricing, technology, designs, existing and proposed products and services, sample new products and/or prototypes, forecasts, budgets, suppliers, contracts, customer, production and manufacturing know-how, personnel and distribution, and other similar information which a prudent business would keep confidential, whether or not such information would qualify as a trade secret under applicable Law. Notwithstanding the foregoing, Confidential Information does not include: (a) any information that can be proved by clear and convincing evidence already to have been possessed by the receiving party prior to its disclosure by the disclosing party, (b) information already in (or hereafter becomes in) the public domain or widely known in the industry in which the disclosing party operates, (c) hereafter disclosed by a third party not under any legal or contractual obligation prohibiting disclosure or (d) independently developed without use of or reference to the Confidential Information.

Section 8.07. Waiver. Neither any failure nor any delay by any party in exercising any right, power or privilege under this Agreement will operate as a waiver of such right, power or privilege, and no single or partial exercise of any such right, power or privilege will preclude any other or further exercise of such right, power or privilege or the exercise of any other right, power or privilege. To the maximum extent permitted by applicable law, (a) no waiver that may be given by a party will be applicable except in the specific instance for which it is given; and (b) no notice to or demand on one party will be deemed to be a waiver of any obligation of that party or of the right of the party giving such notice or demand to take further action without notice or demand as provided in this Agreement or the documents referred to in this Agreement.

Section 8.08. Assignments, Successors and No Third-Party Rights. No party may assign any of its rights or delegate any of its obligations under this Agreement without the prior written consent of the other party, except that Buyer may assign its rights or obligations hereunder in

whole or in part to any one or more of its Subsidiaries. Subject to the preceding sentence, this Agreement will apply to and be binding in all respects upon and inure to the benefit of the successors and permitted assigns of the parties. Nothing expressed or referred to in this Agreement will be construed to give any Person other than the parties to this Agreement any legal or equitable right, remedy or claim under or with respect to this Agreement or any provision of this Agreement, except for such rights as shall inure to a successor or permitted assignee pursuant to this Section 8.08 and except as contemplated by Article 6 and Article 7.

Section 8.09. Severability. If any provision of this Agreement is held invalid or unenforceable by any court of competent jurisdiction, the other provisions of this Agreement will remain in full force and effect. Any provision of this Agreement held invalid or unenforceable only in part or degree will remain in full force and effect to the extent not held invalid or unenforceable.

Section 8.10. Remedies. The rights and remedies of the parties to this Agreement are cumulative and not alternative. Each of Manager and the Key Executives agrees that in the event of a breach of this Agreement by Manager or any Key Executive money damages will be inadequate and Buyer will have no adequate remedy at Law. Accordingly, each of Manager and the Key Executives agrees that Buyer shall have the right, in addition to any other rights and remedies existing in its favor, to enforce its rights and Manager's and each of the Key Executives' obligations hereunder not only by an action or actions for damages but also by an action or actions for specific performance, injunctive and/or other equitable relief. For the avoidance of doubt, neither Manager nor any of the Key Executives shall have any right to enforce its rights or Buyer's obligations hereunder by an action or actions for specific performance, injunctive and/or other equitable relief.

Section 8.11. Choice of Law. All issues and questions concerning the construction, validity, enforcement and interpretation of this Agreement and the Exhibits attached hereto will be governed by and construed in accordance with the internal laws of the State of Delaware, without giving effect to any choice of law or conflict of law provision or rule (whether of the State of Delaware or any other jurisdiction) that would cause the application of the laws of any jurisdiction other than the State of Delaware.

Section 8.12. Arbitration.

(a) Except with respect to disputes and claims for injunctive relief (which the parties hereto may pursue in any court of competent jurisdiction and which may be pursued in any court of competent jurisdiction as specified below and with respect to which each party shall bear the cost of its own attorneys' fees and expenses, except to the extent otherwise required by applicable law), each party hereto agrees that arbitration, pursuant to the procedures set forth in the National Rules for the Resolution of Employment Disputes of the American Arbitration Association (as adopted and effective as of June 1, 1997 or such later version as may then be in effect) (the "AAA Rules"), shall be the sole and exclusive method for resolving any claim or dispute ("Claim") arising out of or relating to the rights and obligations of the parties under this Agreement and the engagement of Manager by the Company, whether such claim arose or the facts on which such Claim is based occurred prior to or after the execution and delivery of this Agreement. The parties hereto agree that (i) one (1) arbitrator shall be appointed pursuant to the

AAA Rules to conduct any such arbitration, (ii) all meetings of the parties and all hearings with respect to any such arbitration shall take place in the San Francisco, California area, (iii) each party to the arbitration shall bear its own costs and expenses (including, without limitation, all attorneys' fees and expenses, except to the extent otherwise required by applicable law) except that any party determined by the arbitrator to arbitration have brought or advanced a material Claim or defense to a material Claim without merit shall pay the reasonable attorneys fees and other expenses incurred by the other party, and (iv) all costs and expenses of the arbitration proceeding (such as filing fees, the arbitrator's fees, hearing expenses, etc.) shall be borne equally by the parties hereto. The parties agree that the judgment, award or other determination of any arbitration under the AAA Rules shall be final, conclusive and binding on all of the parties hereto. Nothing in this Section 8.12 shall prohibit any party hereto from instituting litigation to enforce any final judgment, award or determination of the arbitration. Each party hereto hereby irrevocably submits to the jurisdiction of the United States District Court for the Northern District of California, and agrees that such court shall be the exclusive forum for the enforcement of any such final judgment, award or determination of the arbitration. Each party hereto irrevocably consents to service of process by registered mail or personal service and waives any objection on the grounds of personal jurisdiction, venue or inconvenience of the forum. Each party hereto further agrees that each other party hereto may initiate litigation in any court of competent jurisdiction to execute any judicial judgment enforcing or not enforcing any award, judgment or determination of the arbitration.

(b) Notwithstanding the foregoing, prior to any party hereto instituting any arbitration proceeding hereunder to resolve any Claim, such party first shall submit the Claim to a mediation proceeding between the parties hereto which shall be governed by the prevailing procedures of the American Arbitration Association and shall be conducted in the San Francisco, California area. If the parties hereto have not agreed in writing to a resolution of the Claim pursuant to the mediation within forty-five (45) days after the commencement thereof or if any party refuses to participate in the mediation process, then the Claim may be submitted to arbitration under paragraph (a) above. Each party hereto shall bear its own costs and expenses incurred in connection with the mediation, and all costs and expenses of the mediation proceeding shall be borne equally by the parties hereto.

[signature page(s) to follow]

IN WITNESS WHEREOF, the parties have executed this Agreement as of the Effective Date.

MANAGER:

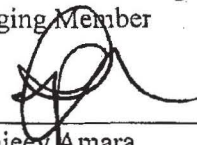
CONTINENTAL RAIL LLC

By: 
Name: John W. Marino, Jr.
Title: - CEO -

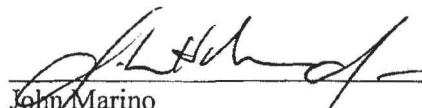
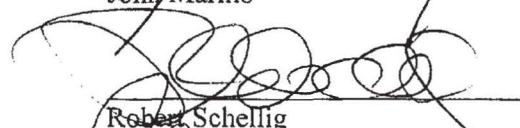
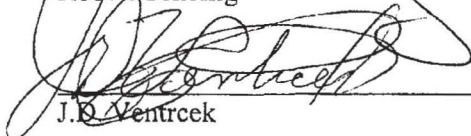
BUYER:

WEST BRANCH INTERMEDIATE
HOLDINGS, LLC

By: West Branch Holdings, LLC
Its: Managing Member

By: 
Name: Rajeev Amara
Title: Manager

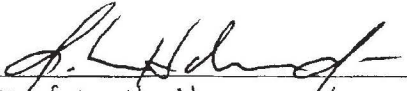
KEY EXECUTIVES:


John Marino

Robert Schellig

J.D. Ventrcek

IN WITNESS WHEREOF, the parties have executed this Agreement as of the Effective Date.

MANAGER:

CONTINENTAL RAIL LLC

By: 
Name: John W. Marino Jr.
Title: CEO

BUYER:

WEST BRANCH INTERMEDIATE
HOLDINGS, LLC

By: West Branch Holdings, LLC
Its: Managing Member

By: _____
Name:
Title:

KEY EXECUTIVES:

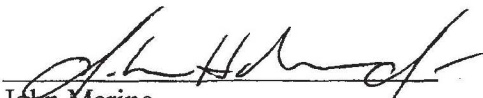
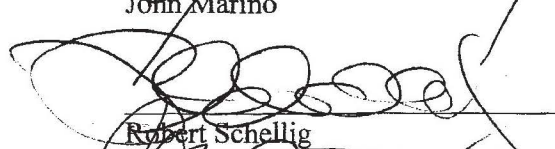
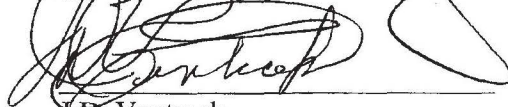

John Marino

Robert Schellig

J.D. Ventrecek

EXHIBIT A
JOINDER TO MANAGEMENT AGREEMENT

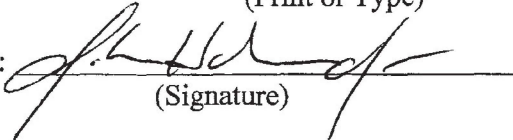
The undersigned is executing and delivering this Joinder pursuant to that certain Management Agreement, dated as of [____], 2015, by and among West Branch Intermediate Holdings, LLC (the "Company") and the other parties signatory thereto (as amended or modified from time to time, the "Management Agreement").

By executing and delivering to the Company this Joinder, the undersigned hereby agrees to become a party to, to be bound by, and to comply with the provisions of the Management Agreement as a "Key Executive" for all purposes thereof in the same manner as if the undersigned were an original signatory to the Management Agreement.

Accordingly, the undersigned has executed and delivered this Joinder effective as of the ____ day of _____, 2015.

Name: John H. Marino, Jr.
(Print or Type)

Social Security Number: . _____
(Print or Type)

Signature: 
(Signature)

Agreed and Accepted:

WEST BRANCH INTERMEDIATE
HOLDINGS, LLC

By: West Branch Holdings, LLC
Its: Managing Member

By: _____
Name: Rajeev Amara
Its: Manager

EXHIBIT B **RAILROAD**

The Railroad consists of over 43.7 miles of track in and around Monroe, Louisiana. The Company owns 31.1 miles of this track, while they lease and/or have trackage rights over the remainder. The Railroad consists of two separate former Union Pacific (“UP”) rail lines and therefore operates as two divisions – the Sterlington Division and the Lake Providence Division.

Sterlington Division

The Railroad’s Sterlington Division operates over approximately 14.7 miles of north-south rail line, originating at Sterlington at MP 554 (MP = mile post) and ending at Monroe, Louisiana, at MP 568.7. This track was originally part of the Huttig Subdivision of the Missouri Pacific (Union Pacific) railroad. At the south end of the line the Railroad accesses UP’s yard for interchange with UP and The Kansas City Southern Railroad (“KCS”). The Company owns from MP 554 to MP 556.1, leases from UP (with no payment) from MP 556.1 to MP 566, and has a joint usage agreement with UP from MP 566 to MP 568.7.

There are two transload (transfer of product to/from rail to truck) facilities on the line that are currently unused but could be activated quickly. There is capacity for approximately 40 storage cars on this line. The Arkansas, Louisiana & Mississippi Railroad (“ALM”) crosses the Railroad at MP 568.1. There is no interchange between the ALM and the Railroad.

The track has been removed west from MP 554 across the Ouachita River, leaving a three-span swing bridge over the river lined for barge movement. The Company owns this bridge. West of the bridge the Company owns 14 miles of real estate in the form of right-of-way with the track removed. The Company is only responsible for all maintenance between MP 554 and MP 566, which includes four bridges. UP maintains between MP 566 and MP 568.7.

The Railroad operates one train per week on the Sterlington Division with a two man crew and two locomotives. There are two active customers on this line, Angus Chemical (Dow Chemical) and Buffington Lumber. The crew operates to Monroe for interchange and returns to Sterlington. The crew members are qualified on the General Code of Operating Rules (GCOR) due to having to operate on the UP and KCS main lines.

Lake Providence Division

The Railroad’s Lake Providence Division operates from Tallulah at MP 500 to Lake Providence, Louisiana, at MP 471, a distance of 29 miles – all owned by the Company. However, the track from MP 491 to MP 471 (20 miles) has been out-of-service since 2004 due to a lack of traffic. The line was originally was part the Missouri Pacific main line running from Ferriday, Louisiana, to McGehee, Arkansas, parallel to the Mississippi River. The Railroad interchanges with the KCS in Tallulah, Louisiana, via operating rights over 3.7 miles of KCS line.

There is a wye located at MP 491 to access the Madison Parish Port facility. The Railroad has an office at this location and parks four locomotives and maintenance-of-way equipment here. Locomotive maintenance is performed at this location. There is a small transload facility located

at MP 496. At the south end of the line (south of I-20), the Company owns another 14 miles of real estate in the form of right-of-way with the track removed. In addition, the Company currently has over 100 customer cars stored at Tallulah.

The Railroad operates one train per week on the Lake Providence Division, using a two-man crew and one locomotive. There are three active customers, Complex Chemical, Terral River Fertilizer and Helena Chemical – all located within the Madison Parish Port facility. The crew switches the port and travels to Tallulah for interchange.

EXHIBIT C
AMENDED AND RESTATED
LIMITED LIABILITY COMPANY AGREEMENT

See attached

EXHIBIT D
FORMS OF INCENTIVE EQUITY AGREEMENTS

See attached

SCHEDULE I
OWNERSHIP OF MANAGER

See Schedule 1 to attached Limited Liability Company Agreement of Manager

SCHEDULE II
OTHER INDUSTRY ACTIVITIES

None

SCHEDULE III

SERVICES

- Railroad maintenance and operations
- All functions typically associated with the SG&A role of a company within the Industry, including but not limited to:
 - General corporate governance, including but not limited to:
 - Preparation of materials and participation in quarterly meetings of the Board
 - Preparation of any reporting as requested by GGC, including for the purposes of GGC audits or internal presentations
 - Full participation in any and all capital structure activities of the Company, including but not limited to a debt financing, merger, sale process, or IPO
 - Insurance administration
 - General administration
 - Finance, including but not limited to:
 - Monthly and quarterly closings
 - Preparation of an annual budget that is updated regularly
 - Preparation of consolidated financial statements for West Branch Holdings, LLC and/or its subsidiaries
 - Internal and external audit administration
 - Controlling
 - Treasury, including cash management and accounts payable/payroll and accounts receivable/billing/collection administration
 - Compliance, including with any future debt facilities existing at West Branch Holdings, LLC and/or its subsidiaries
 - Asset booking and depreciation schedules
 - Processing and reporting of sales, use, unemployment and other non-income taxes
 - Human Resources, including but not limited to:
 - Hiring of sufficient employees as needed to operate the Company
 - Processing of new hires, terminations and unemployment claims
 - Benefits and pension administration
 - Legal and Licensing, including but not limited to:
 - Application, renewal or transition of licenses and permits
 - Registration of personnel changes
 - Regulatory compliance and oversight
 - Sales
 - Marketing

- IT, including but not limited to:
 - Establishment and maintenance of Company website
 - Network and database administration
 - Data integrity, firewall and security administration
 - Data extraction and migration
 - Disaster recovery services
 - Internal and external help-desk services and support
 - Telecommunication services and support
 - Email messaging and operation services and support
- Business Development
- Purchasing, Distribution and Customer Services, including but not limited to:
 - Inventory inspection and reporting
 - Customer interface and order input
 - Customer service and relations
- Facilities and Equipment
 - Lease administration
 - Facility maintenance and security services
 - Equipment servicing and support
 - Utilities management
- Development of a pipeline of new acquisitions opportunities and due diligence of these opportunities, including but not limited to:
 - Prospecting for new acquisition opportunities, including engaging brokers or intermediaries as necessary to perform this function
 - Maintenance of a acquisition pipeline document that is regularly updated in a format to be determined by GGC
 - Initial due diligence activities, including but not limited to:
 - Initial engagement with acquisition opportunities
 - Data review and analysis
 - Documentation review and analysis, including initial legal review and preparation of a legal due diligence memo
 - Revenue enhancement and cost savings analysis
 - Site visits, inspections, and meetings with management members
 - Customer, expert, and other interviews
 - Due diligence memo, financial model, and presentation preparation in a format to be determined by GGC
 - Development of budget targets that will be incorporated into Company's budget
 - Bid letter and other documentation preparation
 - Insurance review and updated policy creation
 - Management evaluation and recruiting

- Final due diligence activities, including but not limited to:
 - Phase 1 and other environmental reviews
 - Quality of Earnings analysis, tax, and other accounting reviews
 - Further legal reviews and legal structuring as specified by GGC
- Sign-to-close activities, including but not limited to:
 - Satisfaction of all legal requirements as specified by GGC, including any customer or supplier consents
 - Approvals as required from any governmental authority
 - Financing activities
- Post-close activities, including but not limited to:
 - Human resource activities, including management retention, management upgrades, or reductions in force
 - Implementation of revenue enhancement, cost savings, or systems optimization initiatives
 - All other SG&A functions described above being provided to the Company
- Implementation of governance and control policies at the Company as determined by GGC, including but not limited to (and subject to change at GGC's sole discretion):
 - Pre-review and approval by GGC of any change in employment status of any employees of the Company (or prompt notification if event occurs without any action by Company)
 - Pre-review and approval by GGC of any change at the Company that could affect financial performance by more than 5% in a quarter (or prompt notification if event occurs without any action by Company)
 - Pre-review and approval by GGC of any cash disbursements (beyond wages, salaries, and employee benefits) in excess of \$25,000
 - Pre-review and approval by GGC of any and all cash transfers to, or other transactions with, Manager, any of its equityholders or any of their respective Affiliates
 - Pre-review and approval by GGC of the establishment of any new bank accounts, changes in finance or accounting policies, or changes in cash management policies
 - Pre-review and approval by GGC of any and all cash transfers that are one-time in nature or otherwise not reflected in a budget approved by GGC
 - Pre-review and approval by GGC of any contracts and agreements that could affect financial performance by more than 5% in a quarter
 - Pre-review and approval by GGC of any press release or other press that contains reference to the Company or any of its subsidiaries or GGC

SCHEDULE IV
FINANCIAL GOALS AND TARGETS

See attached

SCHEDULE V
INSURANCE

From and after the Effective Date, Manager shall place and maintain in effect the following insurance coverages:

- Commercial general liability insurance, including coverage against claims for personal injury, bodily injury, death or property damage, such insurance (a) to be on the so-called "occurrence" form with limits of not less than Two Million Dollars (\$2,000,000) in the aggregate and One Million Dollars (\$1,000,000) per occurrence; (b) to continue at not less than the aforesaid limit until required to be changed by Buyer in writing by reason of changed economic conditions making such protection inadequate; and (c) add Buyer as an additional insured; and (d) to cover at least the following hazards: (i) premises and operations; (ii) products and completed operations on an "if any" basis;
- Worker's compensation insurance with respect to any employees of Manager, as required by any governmental authority or legal requirement;
- Directors & Officers insurance in the amount of One Million Dollars (\$1,000,000) that includes coverage for Individual Non-Indemnified Liability Coverage; Individual Indemnified Liability Coverage; Entity Liability Coverage